

FIRST ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1909

GOVERNMENT DOCUMENT
COLLECTION

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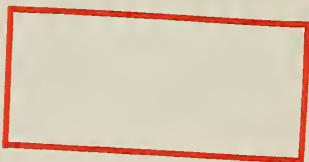
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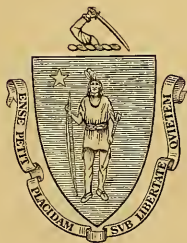
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APPROVED BY
THE STATE BOARD OF PUBLICATION.

The Commonwealth of Massachusetts.

REPORT OF THE BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The undersigned commissioners, James Barr Ames, Samuel Ross and Hollis R. Bailey, appointed by the Governor under the provisions of chapter 416 of the Acts of 1909, pursuant to the provisions of said act, submit the following report.

In view of the great and increasing interest now taken throughout the Union in the matter of uniform legislation by the several States, a brief history of the movement seems desirable.

The work began as early as 1882, when the committees on jurisprudence and law reform and on judicial administration of the American Bar Association recommended the passage by the Legislatures of the several States of various acts, including one relating to the acknowledgment of deeds and one to prevent fraudulent divorces.

Between this year and the year 1889 various uniform legislation was recommended by different committees of the American Bar Association, including acts relating to the settlement of the estates of decedents, indeterminate sentences in criminal cases, marriages, descent and distribution of property, and execution and probate of wills.

In 1889, on motion of W. A. Collier, Esq., of Tennessee, the American Bar Association created a new committee,

called the committee on uniform State laws, this committee consisting of one member from each State. Massachusetts was at the outset represented by the Hon. Leonard A. Jones, afterwards judge of the Land Court, and very recently deceased.

In 1890 the necessity for uniformity in the laws governing commercial paper was discussed by Henry C. Tompkins, Esq., of Alabama, who called attention to the fact that one of the declared objects of the American Bar Association, as set forth in its constitution, was to promote "uniformity of legislation throughout the Union."

The committee on uniform State laws, created as aforesaid, made a report in 1891, which was signed by Mr. Jones and others. In this report it was stated that a circular had been issued, asking for information on various points relating to uniformity of legislation and the desirability of the same.

The report also stated that commissions on uniform State laws had been appointed in six States, viz., New York, Pennsylvania, Massachusetts, Michigan, New Jersey and Delaware.

The report recommended action looking to the creation of similar commissions in the various States.

ACTS OF LEGISLATURE.

The act by which commissioners for the promotion of uniformity of legislation in the United States were first appointed in Massachusetts was Acts of 1891, chapter 405, providing for a commission of three members, appointed by the Governor, to hold office not exceeding two years.

The following additional acts have since been passed : —

Acts of 1893, chapter 311, providing for a board of three members, to serve six years.

Acts of 1897, chapter 233, extending the term of office of the board for five years.

Acts of 1902, chapter 494, providing for two additional commissioners, one representing the interests of the working classes and one the interests of manufacturers.

This act further provided that said commissioners should

endeavor to promote uniformity of legislation making eight hours a legal day's labor throughout the United States.

Acts of 1902, chapter 501, extending the term of office of the commissioners to 1905.

Acts of 1904, chapter 415, providing money for expenses of the Board.

Acts of 1905, chapter 172, extending term of office of the commissioners to March 14, 1908.

In 1908 the Board lapsed, and there were no commissioners until the present Board was appointed, June 30, 1909, for a term of five years, under Acts of 1909, chapter 416.

The commissioners are authorized by this act to confer with the commissioners appointed by other States and to consider and draft uniform laws to be adopted by the several States.

The Board is required to make a report each year, on or before December 31, to the Governor and Council.

COMMISSIONERS IN MASSACHUSETTS.

The following have been appointed commissioners in Massachusetts on uniformity of legislation, under the acts above enumerated : —

EDMUND H. BENNETT.

FREDERICK J. STIMSON.

GEORGE E. MCNEIL.

LEONARD A. JONES.

GEORGE W. WEYMOUTH.

JOHN C. GRAY.

GEORGE E. GARDNER.

LOUIS D. BRANDEIS

FREDERICK H. NASH.

JAMES BARR AMES.

SAMUEL ROSS.

HOLLIS R. BAILEY.

GROWTH OF MOVEMENT.

In 1892, at the meeting of the American Bar Association, held at Saratoga Springs, a paper was read by William L. Snyder, Esq., of New York, on "The Problem of Uniform Legislation in the United States."

In this paper Mr. Snyder states that the initial step in the direction of securing uniform legislation by voluntary action among the States was taken by the State of New York by an act passed in May, 1890.

In August, 1893, the committee on uniform State Laws of the American Bar Association reported that during the current year eleven States had appointed commissioners on uniformity of legislation, making nineteen States in which such commissioners had been appointed.

In 1894 Iowa, Virginia and South Carolina also appointed such commissioners.

In August, 1895, the committee on uniform State laws of the American Bar Association reported that six more States and one Territory had appointed commissioners, making in all twenty-eight States and one Territory in which commissioners had been appointed. Mention is also made of a convention of commissioners, and it is stated that some of the laws recommended by the convention had been adopted in Massachusetts, Connecticut, Wisconsin, New York, Illinois and Michigan.

In 1896 the same committee reported that twenty-nine States had been represented in the convention, which in a recent session of three days had given almost the entire time to work on a negotiable instrument act.

In August, 1897, the committee reported that the negotiable instrument act recommended for adoption by the conference of commissioners in 1896 had been enacted in New York, Connecticut, Colorado and Florida.

No new acts, it is said, had been recommended at the conference of 1897.

In 1899 the committee reported that fifteen States had adopted the negotiable instrument act, among them being Massachusetts. Congress had also adopted it for the District of Columbia. At this time there were thirty-two States having commissions.

In 1900 a uniform act on divorce was recommended by the conference of commissioners, after three years' consideration and discussion.

In 1901 the conference of commissioners discussed and recommended three acts, one relative to insurance policies, one relative to migratory divorces and one relative to divorce procedure.

In 1902 nineteen States had adopted the negotiable in-

strument act, and several additional States had created boards of commissioners on uniform laws.

At the conference of commissioners held in August, 1902, it was voted that an expert be employed to prepare a draft of an act in regard to sales, to be submitted to the next annual conference.

Pursuant to this vote, Prof. Samuel Williston of the Harvard Law School was employed, and at the next annual conference of commissioners, held in August, 1903, submitted a draft of a uniform sales of goods act. Owing to the absence of Professor Williston, due to illness, the committee on commercial law was compelled to defer consideration of the act until the next year. Copies of the proposed act were, however, printed and widely distributed.

At this conference it was announced that the services of James Barr Ames, Dean of the Harvard Law School, had been secured to draft a uniform partnership act for the conference.

A paper was read by Mr. L. G. Powers of the Census Bureau on "A Uniform System of Accounting in State and Municipal Affairs."

In 1904 it was voted by the American Bar Association, on the recommendation of its committee on uniform State laws, that the proceedings of the Conference of Commissioners on Uniformity of Legislation be published each year in the report of the American Bar Association.

The report for 1904 (Vol. XXVII., American Bar Association) gave a brief history of the conference, the meeting in 1904 being the fourteenth annual meeting. The rules of the conference were also given, with a list of commissioners and the names of the various committees; also, the address of the President, Amasa M. Eaton, Esq., of Providence, R. I. Massachusetts was represented at this conference by Dean James Barr Ames, one of its commissioners.

The sales act was discussed at length. A donation of \$1,500 was received from the American Warehousemen's Association, to be used in procuring suitable experts to prepare a draft of an act relating to warehouse receipts; and

Mr. Barry Mohun of the Washington bar and Prof. Samuel Williston were employed as such experts.

Since 1904 a full account of the doings of the conference of commissioners has been included each year in the printed reports of the American Bar Association.

It appears that the uniform sales act prepared by Professor Williston was discussed for several years, and was finally perfected and recommended for adoption in 1907.

This sales act has already been made law in Massachusetts, Connecticut, New Jersey, Ohio and Rhode Island.

A uniform warehouse receipts act was also framed, and after extended consideration was, in 1907, recommended by the conference for adoption in the different States.

This act has been adopted and made law in Massachusetts and seventeen other States, viz.: California, Connecticut, Illinois, Iowa, Kansas, Louisiana, Michigan, Nebraska, New Jersey, New Mexico, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia and Wisconsin.

The negotiable instruments law has now been passed in thirty-eight States and Territories and the District of Columbia.

CONFERENCE OF 1909.

The nineteenth Conference of Commissioners on Uniform State Laws was held this year at Detroit, Mich., in August. Massachusetts was represented by two of its commissioners, James Barr Ames and Hollis R. Bailey.

Much of the time was devoted to the consideration of uniform acts relating to certificates of stock and to bills of lading. These acts were perfected and recommended for adoption.

A uniform act relating to partnership, prepared for the conference by James Barr Ames of Massachusetts, was considered briefly, and also uniform acts relating to marriage and desertion. These acts will be considered further at the conference in 1910.

James Barr Ames of Massachusetts was appointed a member of the committee on commercial law, and of the committee on the Torrens system. Hollis R. Bailey of Massachusetts was appointed a member of the committee on banks and banking.

CHILD LABOR LAW.

The commissioners from Massachusetts presented the following resolution on the subject of child labor : —

Whereas, It seems desirable that as far as possible there should be uniform legislation in all the States to regulate the employment of child labor, —

Be it resolved, That a special committee of five be appointed by the president to consider and to report at the next annual conference as to the advisability of preparing a uniform child labor act, to be recommended for adoption in the several States.

The resolution was seconded by W. O. Hart, Esq., of Louisiana, and was adopted after being amended by the addition of a proviso that the committee should report on the following Monday, instead of a year later.

The president appointed, as the special committee, Hollis R. Bailey of Massachusetts, Amasa M. Eaton of Rhode Island, Charles Thaddeus Terry of New York, William H. Staake of Pennsylvania and W. O. Hart of Louisiana.

On the following Monday this committee reported as follows : —

We report that it is advisable that a special committee of five be appointed by the president, with authority to draft and present to the next conference an act to make uniform the law relating to child labor.

This report was adopted, and the president appointed the following gentlemen as the committee : Hollis R. Bailey of Massachusetts, Amasa M. Eaton of Rhode Island, Hon. Fremont Wood of Idaho, Nathan W. MacChesney of Illinois and A. T. Stovall of Mississippi.

This committee met and organized by electing Hollis R. Bailey as chairman and Amasa M. Eaton as secretary.

The committee will meet again in Washington, D. C., Jan. 17, 1910, and is arranging for a public hearing to be had in connection with the conference on uniform legislation called by the National Civic Federation in Washington, D. C., Jan. 17-19, 1910.

OFFICERS OF NATIONAL CONFERENCE.

The officers of the Conference of Commissioners on Uniform State Laws for the year 1909-10 are as follows : —

President, WALTER GEORGE SMITH of Pennsylvania.

Vice-President, PETER W. MELDRIM of Georgia.

Treasurer, TALCOTT H. RUSSELL of Connecticut.

Secretary, CHARLES THADDEUS TERRY of New York.

Assistant Secretary, FRANCIS A. HOOVER of Ohio.

Executive Committee, the foregoing, and Amasa M. Eaton of Rhode Island, William H. Staahe of Pennsylvania, Charles F. Libby of Maine, Hiram Glass of Texas, Charles W. Smith of Kansas and John Fletcher of Arkansas.

Commissioners on uniform laws have now been appointed in forty-four States, two Territories, one federal district and one possession.

LIST OF COMMISSIONERS ON UNIFORM STATE LAWS, 1909.

Arkansas. — John Fletcher, Adams building, Little Rock; John M. Moore, Moore & Turner building, Little Rock; Ashley Cochrill, Southern Trust building, Little Rock.

Alabama. — Frederick G. Bromberg, 72 St. Francis Street, Mobile; Henry Tonsmeire, Mobile; S. D. Weakley, Birmingham.

Arizona. — Edward Kent, Phoenix; E. E. Ellinwood, Bisbee; J. M. Ross, Prescott.

California. — John F. Davis, 1430 Masonic Avenue, San Francisco; Charles Monroe, California Club, Los Angeles; Lynn Helm, Los Angeles Trust building, Los Angeles; Gurney E. Newlin, 431 South Hill Street, Los Angeles; Walter R. Leeds, Los Angeles.

Colorado. — Thomas H. Devine, Opera House block, Pueblo; Gerald Hughes, Hughes building, Denver; Willis V. Elliott, Kittredge building, Denver.

Connecticut. — Talcott H. Russell, 42 Church Street, New Haven; Walter E. Coe, Stamford (165 Broadway, N. Y.); Erliss P. Arvine, 42 Church Street, New Haven.

District of Columbia. — F. L. Siddons, Bond building, Washington; Aldis B. Browne, 1419 F Street, N. W., Washington; Walter C. Clephane, Fendall building, Washington.

Florida. — Robert W. Williams, 123 South Monroe Street, Tallahassee; John C. Avery, Thiesen building, Pensacola; Louis C. Massey, Empire building, Orlando.

Georgia. — Peter W. Meldrim, 15 Bay Street, W., Savannah; A. C. Pate, Odd Fellows building, Hawkinsville; Reuben R. Arnold, Atlanta.

- Illinois.* — John C. Richberg, 1303 Rector building, Chicago; Nathan W. MacChesney, 108 La Salle Street, Chicago; John H. Wigmore, Northwestern Law School, Chicago; Oliver A. Harker, University of Illinois, Champaign; Ernst Freund, University of Chicago, Chicago.
- Indiana.* — Andrew A. Adams, Columbia City; E. B. Sellers, Monticello; S. O. Pickens, Indianapolis; James W. Noel, Indianapolis; Merrill Moores, Indianapolis (1025 Law building).
- Idaho.* — James E. Babb, Lewiston National Bank building, Lewiston; Fremont Wood, Boise; W. W. Woods, Wallace.
- Iowa.* — Thomas A. Cheshire, Des Moines; Emlin McClain, Supreme Court, Iowa City; J. B. Sullivan, Des Moines; H. O. Weaver, State Savings Bank building, Wapello.
- Kansas.* — A. A. Godard, Topeka; C. W. Smith, Stockton; S. N. Hawkes, Topeka; J. L. Jackson, Topeka; S. H. Allen, Topeka.
- Kentucky.* — T. L. Edelan, Frankfort; John T. Shelby, Lexington; James R. Duffin, Louisville.
- Louisiana.* — Thomas J. Kernan, 414 Third Street, Baton Rouge; W. O. Hart, 134 Carondelet Street, New Orleans; J. R. Thornton, Alexandria.
- Maine.* — Charles F. Libby, 57 Exchange Street, Portland; Frank M. Higgins, Limerick; Hannibal E. Hamlin, Ellsworth.
- Maryland.* — George Whitelock, 1407 Continental Trust building, Baltimore; Jacob Rohrbach, Frederick; Lewin W. Wickes, Chestertown.
- Massachusetts.* — Samuel Ross, New Bedford; James Barr Ames, Cambridge; Hollis R. Bailey, Cambridge.
- Michigan.* — George W. Bates, 32 Buhl building, Detroit; Lawrence C. Fyfe, Benton Harbor; Cyrenius P. Black, Lansing.
- Minnesota.* — W. S. Pattee, University of Minnesota, Minneapolis; W. W. Billson, Duluth; Rome G. Brown, 1006 Metropolitan Life building, Minneapolis; Frederick V. Brown, Court House, Minneapolis; Daniel Fish, New York Life building, Minneapolis; Howard S. Abbott, Federal building, Minneapolis; Frank D. Larrabee, Security Bank building, Minneapolis; T. R. Kane, St. Paul; Albert R. Moore, Germania Life Insurance building, St. Paul; John D. O'Brien, Commercial building, St. Paul.
- Mississippi.* — R. H. Thompson, 429½ East Capitol Street, Jackson; W. V. Sullivan, Sullivan building, Oxford; A. T. Stovall, Okolona.
- Missouri.* — Seneca N. Taylor, Pierce building, St. Louis; John D. Lawson, Columbia; Edwin A. Krauthoff, Kansas City.
- Montana.* — J. B. Clayberg, Union Bank and Trust Company, Helena; T. C. Marshall, Missoula; Hiram Knowles, Missoula.
- Nebraska.* — John L. Webster, New York Life building, Omaha; Ralph W. Breckenridge, 711 New York Life building, Omaha; William G. Hastings, Wilbur.

- New Hampshire.*—Henry E. Burnham, Manchester; Ira A. Chase, Bristol.
- New Jersey.*—Frank Bergen, 763 Broad Street, Newark; John R. Hardin, 765 Broad Street, Newark; John R. Emery, Morristown.
- New Mexico.*—James M. Hervey, Roswell; James G. Fitch, Socorro; A. A. Freeman, Carlsbad (Victoria, B. C.).
- New York.*—Charles Thaddeus Terry, 100 Broadway, New York City; Francis M. Burdick, 633 West 115th Street, New York City.
- North Carolina.*—J. Crawford Biggs, Durham; Linsley Patterson, Winston-Salem; Charles A. Moore, Asheville.
- North Dakota.*—H. R. Turner, Fargo; John E. Greene, Scofield building, Minot.
- Ohio.*—Seth S. Wheeler, Holland block, Lima; Francis B. James, Mercantile Library building, Cincinnati; Harry B. Arnold, 8 East Long Street, Columbus.
- Oklahoma.*—J. C. Strang, Guthrie; J. W. Shartell, Oklahoma City; C. R. Brooks, Guthrie; John H. Mosier, Walsh building, Norman; C. B. Ames, Oklahoma City.
- Oregon.*—H. H. Emmons, 366 Washington Street, Portland; W. H. Fowler, Board of Trade building, Portland.
- Pennsylvania.*—William H. Staake, 648 City Hall, Philadelphia; Walter George Smith, 1006 Land Title building, Philadelphia; Robert Snodgrass, Harrisburg.
- Philippine Islands.*—E. Finley Johnson, associate judge, Supreme Court, Manila; Charles S. Lobingier, judge, Court of First Instance, District of Manila, Baguio; Charles H. Smith, judge, Court of First Instance, Manila (or Jackson, Mich.).
- Rhode Island.*—Amasa M. Eaton, 86 Weybosset Street, Providence; Wm. R. Tillinghast, Hospital Trust Company building, Providence; Clarence N. Woolley, Studley building, Providence.
- South Carolina.*—T. Moultrie Mordecai, 43 Broad Street, Charleston; John C. Sheppard, Edgefield; John P. Thomas, Jr., Columbia.
- South Dakota.*—U. S. G. Cherry, Sioux Falls; A. W. Wilmarth, Huron; L. W. Crofoot, Aberdeen; J. H. Voorhees, Sioux Falls.
- Tennessee.*—Lem Banks, Memphis; W. H. Washington, Nashville; H. H. Ingersoll, Knoxville.
- Texas.*—W. M. Crook, Beaumont; H. M. Garwood, Houston; Claude Pollard, Kingsville; Hiram Glass, Texarkana.
- Utah.*—Jerrold R. Letcher, United States Courts, Salt Lake; Benner X. Smith, Salt Lake; L. L. Baker, Tooele.
- Vermont.*—O. M. Barber, Ritchie block, Bennington; A. A. Hall, corner Main and Kingman streets, St. Albans.
- Virginia.*—Eugene C. Massie, Richmond; J. E. Thrift, Madison; James R. Caton, Alexandria.
- Washington.*—Charles E. Shepard, New York building, Seattle; Alfred Battle, Alaska building, Seattle; W. B. Tanner, Olympia.

West Virginia. — John W. Davis, Clarksburg; Hunter H. Moss, Jr., Parkersburg; Charles W. Dillon, Fayetteville; William W. Brannon, Weston; Edgar B. Stewart, Morgantown.

Wisconsin. — Edward W. Frost, Wells building, Milwaukee; E. Ray Stevens, Madison; Dr. Charles McCarthy, Wisconsin State Library, Madison.

Wyoming. — Chief Justice Charles N. Potter, Cheyenne; Attorney-General W. E. Mullen, Cheyenne; Assistant United States Attorney, Edward T. Clark, Cheyenne.

FINANCES OF NATIONAL CONFERENCE.

The expenses of the national conference have been met heretofore by a contribution of \$500 yearly from the American Bar Association and contributions from four States, viz.: New York, \$500; Connecticut, \$500; Pennsylvania, \$250; and Rhode Island, \$100.

There have been some special donations to cover the expense of experts to prepare drafts of various acts.

The treasurer of the conference has asked the members of the conference to urge upon the Legislatures of their respective States the necessity of appropriating a reasonable sum of money for carrying on the work of the conference.

EXPENDITURES OF THE BOARD.

The following is an account of the expenditures of this Board up to the date of this report. The statement does not include the expenses of James Barr Ames to Detroit, as his illness has prevented him from rendering a statement of same.

| | |
|--|----------------|
| Hollis R. Bailey, travelling expenses to Detroit, Mich., and return, to attend conference, | \$75 00 |
| Hollis R. Bailey, cash paid for 100 copies of volume entitled "American Uniform Commercial Acts," containing the five acts recommended for adoption by the conference, the same being wanted for the use of the various committees of the Legislature having occasion to consider said acts, at 10 cents per copy, | 10 00 |
| Samuel Ross, travelling expenses to Boston, | 6 00 |
| Cash paid for stamps by H. R. Bailey, | 1 00 |
| Total, | <u>\$92 00</u> |

RECOMMENDATIONS.

The Board makes the following recommendations : —

1. That the Legislature authorize the Board in its discretion to contribute the sum of \$100 per year toward the expenses of the Conference of the Commissioners on Uniform State Laws, the same to come out of the money appropriated for the expenses of the Board by Acts of 1909, chapter 416.

2. That the Legislature pass the act to make uniform the law of transfer of title to shares of stock in corporations, recommended for adoption by the conference of commissioners.

3. That the Legislature pass the act to make uniform the law of bills of lading, recommended for adoption by the conference of commissioners.

4. That no amendments to any of the so-called uniform acts be passed by the Legislature until the same have been referred to the conference of commissioners and approved by that body.

BOARD OF COMMISSIONERS FOR THE PROMOTION OF
UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

BY SAMUEL ROSS,

Chairman pro tem.

HOLLIS R. BAILEY,

Secretary.

DEC. 28, 1909.

SECOND ANNUAL REPORT
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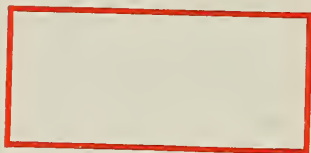
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REPORT OF THE BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

*To His Excellency the Governor and the Honorable Council of the
Commonwealth of Massachusetts.*

The undersigned commissioners, Samuel Ross, Samuel Williston and Hollis R. Bailey, appointed by the Governor under the provisions of chapter 416 of the Acts of 1909, pursuant to the provisions of said act submit the following report.

Jan. 6, 1910, the chairman of the commission, Dean James Barr Ames, died, and the vacancy thus created was filled by the Governor by the appointment of Prof. Samuel Williston.

In January, 1910, the Board prepared and caused to be introduced three petitions with accompanying bills, as follows :—

1. A petition asking for the enactment of the uniform bill of lading act.

2. A petition asking for the enactment of the uniform stock transfer act.

3. A petition asking for an act authorizing the Board, in its discretion, to contribute the sum of \$100 per year toward the expenses of the Conference of Commissioners on Uniform State Laws, the same to come out of the money appropriated for the expenses of the Board.

The first two petitions were referred to the committee on mercantile affairs. Members of this commission attended hearings of the committee and furnished information desired

by the committee, including information as to the nature of the body known as the Conference of Commissioners on Uniform State Laws, and the character and extent of its work. It was shown that the two uniform laws above mentioned had been carefully considered for more than two years by the Conference of Commissioners, and after full discussion had, at the session held in August, 1909, been recommended for adoption by the different States.

All of the three bills introduced as aforesaid were passed without amendment.

The uniform bill of lading act so enacted is chapter 214 of the Acts of 1910.

The uniform stock transfer act so enacted is chapter 171 of the Acts of 1910.

CONFERENCE OF NATIONAL CIVIC FEDERATION.

Two members of this Board, viz., Samuel Ross and Hollis R. Bailey, attended the Conference on Uniform Legislation held in Washington, D. C., in January, 1910, under a call issued by the National Civic Federation.

Mr. Bailey, as chairman of the special committee appointed by the Conference of Commissioners on Uniform State Laws to frame a uniform child labor law, was given a place upon the program, and delivered a short address on the subject of a uniform child labor law.

The conference in Washington lasted three days, and addresses were delivered by President Taft, Secretary Root, Hon. Alton B. Parker, Samuel Gompers, John Mitchell, Gifford Pinchot and others. Several of the uniform laws recommended by the Conference of Commissioners on Uniform State Laws were considered by a committee presided over by the Hon. Seth Low, and were endorsed by the committee and afterwards by the conference in Washington as a whole. The doings at this conference have been published, and a copy will be found in our State Library.

UNIFORM CHILD LABOR LAW.

The special committee appointed by the Conference of Commissioners on Uniform State Laws to draft a uniform child labor law has done a good deal of work and has made considerable progress during the year.

The chairman of this special committee is Hollis R. Bailey, a member of this Board. The other members are Amasa M. Eaton of Rhode Island (Secretary), Fremont Wood of Idaho, Nathan W. MacChesney of Illinois, and A. T. Stovall of Mississippi. Public meetings were held in Washington on the matter of a child labor law in January. In April and May a large number of printed circulars were sent out by the committee, with a draft of a proposed law, and suggestions were invited. Finally, in July a report of the committee was prepared, with a draft of a uniform child labor law. Copies were sent to all the commissioners appointed in the different States to promote uniformity of legislation, and also to all members of American Bar Association.

This report was presented to the conference of commissioners at its annual meeting in Chattanooga in August, and was explained briefly. No action was taken, and the matter will come up in due course for discussion and action at the next annual conference, which will probably be held in Boston in August, 1911.

A copy of said report is annexed hereto.

UNIFORM WORKMEN'S COMPENSATION ACT.

The question of workmen's compensation for injuries sustained in the course of their employment has been under consideration in Europe for nearly twenty years, and acts have been passed in Germany, France, Norway and England providing for the relief of injured workmen and of persons who are dependent upon them. In most of said countries such relief has been furnished by means of some sort of accident insurance. In England a workmen's compensation act was passed in 1897, which was confined to workmen in a limited number of the more hazardous occupations. In 1906 the law was somewhat altered and was extended to practically all workmen.

A federal compensation act of a somewhat limited character was passed by Congress May 30, 1908, applying only to government employees.

In New York, June 25, 1910, a workmen's compensation act was passed, and took effect Sept. 1, 1910.

In June, 1910, by chapter 120 of the Resolves of 1910,

the Legislature of Massachusetts provided for a commission to investigate the subject and prepare a bill to be submitted to the Legislature in 1911.

Similar commissions have been created in Minnesota, New Jersey, Wisconsin, Ohio and Illinois.

The National Civic Federation gave some time to the question at the meeting in Washington, and appointed a committee to prepare a draft of an act.

It being conceded on all hands that it is very desirable that any legislation upon the matter of workmen's compensation for injuries should, as far as possible, be uniform throughout the States, the Conference of Commissioners on Uniform State Laws, at the meeting in August, 1910, created a special committee to draft a uniform workmen's compensation law.

Special Committee on a Uniform Workmen's Compensation Act.

The committee consists of the following members:— Charles Thaddeus Terry of New York, John R. Hardin of New Jersey, George Whitelock of Maryland, John H. Wigmore of Illinois, Aldis B. Browne of District of Columbia, Peter W. Meldrim of Georgia and Hollis R. Bailey of Massachusetts.

Hollis R. Bailey of this Board has been elected chairman, and Charles Thaddeus Terry has been elected secretary.

A meeting of the committee was held at Philadelphia, Oct. 22, 1910.

Three members of the committee, viz., Messrs. Bailey, Browne and Wigmore, attended a conference held in Chicago in November. This conference was called by the Massachusetts commission created under the resolve above mentioned, and was attended by over twenty of the commissioners appointed by the different States to frame workmen's compensation laws.

After a discussion lasting three days a subcommittee, consisting of H. V. Mercer of Minnesota, A. W. Sanborn of Wisconsin and John H. Wigmore of Illinois, was appointed to put in shape an act embodying the conclusions reached by the conference.

The special committee of the Conference of Commissioners on Uniform Laws was given full opportunity to make suggestions and participate in the discussion had by the commissioners appointed by this and other States.

Prof. Samuel Williston of this Board was asked to give opinions on the constitutional questions involved, and his opinions will be printed in the report of the proceedings at Chicago.

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

The conference held its twentieth annual meeting at Chattanooga, Tenn., in August, 1910.

The following officers were elected for 1910-1911 : —

President, WALTER GEORGE SMITH, 1006 Land Title Building, Philadelphia, Pa.

Vice-President, J. R. THORNTON, Alexandria, La.

Secretary, CHARLES THADDEUS TERRY, 100 Broadway, New York, N. Y.

Treasurer, TALCOTT H. RUSSELL, 42 Church Street, New Haven, Conn.

Assistant Secretary, M. GRUNTHAL, 100 Broadway, New York, N. Y.

Executive Committee, William H. Staake, Pennsylvania; Peter W. Meldrim, Georgia; James R. Caton, Virginia; C. P. Black, Michigan; Charles W. Smith, Kansas; and Amasa M. Eaton, Rhode Island, *Ex-President*.

The proceedings of the conference appear in a printed report, a copy of which is in our State Library. They will also appear in the report of the American Bar Association, soon to be published. Prof. Samuel Williston of this Board is a member of the committee on commercial law.

Two additional uniform laws were approved and recommended for adoption in the several States. One of these is entitled “An Act relative to wills executed without this State, and to promote uniformity among the States in that respect.” The other is entitled “An Act relating to desertion and non-support of wife by husband, or of children by either father or mother, and providing punishment therefor; and to promote uniformity between the States in reference thereto.”

In our recommendations at the end of this report we ask that these uniform laws may be adopted in Massachusetts,

and pursuant to chapter 452 of the acts of 1910 we annex to this report drafts of bills embodying the legislation recommended.

EXPENDITURES OF THE BOARD.

The following is an account of the expenditures of this Board for the year:—

1909.

| | | |
|----------|--|---------|
| Aug. 24. | Paid railroad fares, H. R. Bailey, Boston to Detroit, Mich., and return, including berths, . | \$40 00 |
| Aug. 24. | Paid hotel expenses, H. R. Bailey, at Detroit, August 17 to 23, 1909, and meals, etc., . | 35 00 |
| Nov. 16. | Paid stamps, | 1 00 |
| Nov. 19. | Paid Francis B. James for 100 copies of "American Uniform Commercial Acts", | 10 00 |
| Dec. 30. | Paid Geo. W. Smith, additional for 100 copies of "American Uniform Commercial Acts", . | 2 00 |

1910.

| | | |
|-------------|---|-------|
| Jan. 16-20. | Paid expenses, H. R. Bailey, to Washington and return (less \$6 paid by Enterprise Transportation Company), | 44 00 |
| Feb. 10. | Paid express and cartage on 100 copies of "American Uniform Commercial Acts", | 1 07 |
| Feb. 11. | Paid Talcott H. Russell, 20 additional copies, . | 2 40 |
| Mar. 1. | Paid telegram, | 40 |
| Mar. 10. | Paid Wright & Potter Printing Co., 300 pamphlets, | 5 03 |
| Mar. 21. | Paid 200 envelopes to send report, | 60 |
| Mar. 21. | Paid 100 envelopes to send pamphlet, | 95 |
| Mar. 21. | Paid 200 one-cent stamps, | 2 00 |
| Mar. 28. | Paid express to New Bedford, | 25 |
| Mar. 30. | Paid stamps, | 1 00 |
| Apr. 5. | Paid printing slips, | 1 50 |
| Apr. 29. | Paid trip to Providence, | 1 80 |
| May 12. | Paid 100 one-cent stamps, | 1 00 |
| May 12. | Paid 800 one-cent stamps, | 8 00 |
| May 13. | Paid addressing envelopes <i>in re</i> child labor law, . | 1 75 |
| May 13. | Paid telephone to Providence, | 30 |
| May 13. | Paid express on book (<i>in re</i> child labor), . . . | 30 |
| May 16. | Paid 100 one-cent stamps, | 1 00 |
| May 19. | Paid 100 one-cent stamps, | 1 00 |
| May 26. | Paid Miss M. Casey, typewriting, | 2 12 |

Amount carried forward, \$164 47

| | | |
|--------------------------------|--|----------|
| <i>Amount brought forward,</i> | | \$164 47 |
| June 2. | Paid Miss M. MacAllister, copying, | 3 00 |
| June 2. | Paid A. C. Getchell & Son, printing and envelopes, | 65 60 |
| July 9. | Paid Miss M. MacAllister, typewriting, | 1 50 |
| July 11-13. | Paid traveling expenses, H. R. Bailey, to New York and Providence, | 19 14 |
| Aug. 19. | Paid 2,600 one-cent stamps, | 26 00 |
| Aug. 19. | Paid 1,950 two-cent stamps, | 39 00 |
| Aug. 20. | Paid 500 two-cent stamps, | 10 00 |
| Aug. 20. | Paid telegram to New York, | 29 |
| Aug. 22. | Paid H. P. Mellen, clerical services, | 9 00 |
| Sept. 2. | Paid express to and from Chattanooga on reports, | 2 30 |
| Sept. 10. | Paid Samuel Ward Company, envelopes, | 9 13 |
| Sept. 13. | Paid Alice Sampson, addressing envelopes, | 1 91 |
| Sept. 13. | Paid expenses, H. R. Bailey, to Chattanooga to attend Conference of Commissioners: — | |
| | Railroad tickets and berths, | 64 00 |
| | Hotel bill, food and incidental expenses, August 22 to September 1, ten days, H. R. Bailey, | 60 00 |
| Sept. 20. | Paid Eva M. Leslie, clerical services, | 12 00 |
| Sept. 20. | Paid Carolyn Veazey, typewriting, | 7 70 |
| Sept. 20. | Paid Wright & Potter Printing Co., printing 4,900 reports, | 100 46 |
| Sept. 20. | Paid Wright & Potter Printing Co., printing slips, | 2 80 |
| Oct. 21-23. | Paid car fares, H. R. Bailey, to Philadelphia and return to attend meeting of special committee on uniform workmen's compensation act, | 18 00 |
| Oct. 21-23. | Paid Hotel Belmont in New York, H. R. Bailey, | 3 00 |
| Oct. 21-23. | Paid Hotel Bellevue-Stratford, Philadelphia, H. R. Bailey, | 3 50 |
| Oct. 21-23. | Paid meals on trains and at hotels, and other traveling expenses, H. R. Bailey, | 11 50 |
| Oct. 21-23. | Paid express to Providence, | 20 |
| Nov. 7. | Paid railroad ticket to Chicago, H. R. Bailey, | 21 95 |
| Nov. 7. | Paid sleeping-car berth, H. R. Bailey, | 6 00 |
| Nov. 7-13. | Paid meals on trains and at hotel, and other traveling expenses, H. R. Bailey, | 17 00 |
| Nov. 12. | Paid railroad ticket from Chicago, H. R. Bailey, | 22 00 |
| Nov. 12. | Paid sleeping-car berth, H. R. Bailey, | 6 00 |
| Nov. 12. | Paid Hotel La Salle, three days, H. R. Bailey, | 10 50 |
| Nov. 29. | Paid H. V. Mercer, copies of pamphlets, | 1 00 |
| <i>Amount carried forward,</i> | | \$718 95 |

| | | |
|--------------------------------|---|----------------|
| <i>Amount brought forward,</i> | | \$718 95 |
| June 9. | Expenses of Samuel Ross to Washington, D. C., to attend Conference of Civic Federation, | 46 65 |
| June 9. | Expenses of Samuel Williston to New Haven, Conn., to attend meeting of committee on commercial law, | 12 00 |
| Sept. 21. | Expenses of Samuel Williston to Chattanooga to attend conference, | 144 05 |
| Total, | | <hr/> \$921 65 |

RECOMMENDATIONS.

The Board makes the following recommendations : —

1. That no amendments to any of the so-called uniform acts be passed by the Legislature or approved by the Governor until the same have been referred to the Conference of Commissioners and approved by that body.

2. That the Legislature pass the act relative to wills executed without this State, a draft of which is annexed to this report.

3. That the Legislature pass the act relating to desertion and non-support of wife by husband or desertion and non-support of children by either father or mother, a draft of which is annexed to this report.

HOLLIS R. BAILEY.

SAMUEL ROSS.

SAMUEL WILLISTON.

APPENDIX.

APPENDIX.

REPORT OF THE SPECIAL COMMITTEE ON A UNIFORM CHILD LABOR LAW.

To the Commissioners on Uniform State Laws in Twentieth National Conference.

The Special Committee on a Uniform Child Labor Law respectfully reports as follows: —

The committee met in Detroit in August, 1909, and completed its organization by electing Hon. Amasa M. Eaton of Rhode Island as secretary. It was voted to hold meetings in Washington in January, 1910, in connection with the conference arranged for by the National Civic Federation.

In January, 1910, all of the committee except Mr. MacChesney, who was unavoidably detained, met in Washington, and had several meetings and public hearings. These hearings were well attended, several officers of the National Child Labor Committee and of the Southern Child Labor Committee being among those present.

The committee decided to use the so-called standard child labor law, prepared by the National Child Labor Committee, as its starting point, and voted that the chairman and secretary send out a considerable number of printed circulars containing interrogatories and accompanied by a copy of the so-called standard child labor law, for the purpose of obtaining suggestions and information.

The following is a copy of the circular aforesaid: —

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

Special Committee on a Uniform Child Labor Law.

HOLLIS R. BAILEY of Cambridge, *Chairman.*

AMASA M. EATON of Providence, R. I., *Secretary.*

FREMONT WOOD of Idaho.

N. W. MACCHESNEY of Illinois.

A. T. STOVALL of Mississippi.

Questions concerning a Uniform Child Labor Law.

The above named special committee was appointed at the last conference of commissioners on uniform State laws, and was given the duty of preparing a uniform child labor law, to be submitted for consideration at the next conference, to be held in August, 1910, at Chattanooga.

The enclosed draft of an act was prepared for the National Child Labor Committee, and we understand is favored by that organization.

The special committee aforesaid has taken said draft as a good basis for it to work upon, and is very desirous of obtaining suggestions as to any additions or changes needed to make said act better or more effective, or nearer what a uniform child labor law should be.

The special committee has framed the following questions, which it hopes may be answered by all to whom they are sent. Answers must be received by June 1, 1910, and should be sent to the undersigned.

AMASA M. EATON, *Secretary*,
Providence, R. I.

Question 1.—What changes are needed in the enclosed act to make it suitable for adoption as a uniform child labor law?

Question 2.—What objections are there to the act in its present form?

Question 3.—What serious omissions, if any, are there in the act as framed?

Question 4.—What further provisions, if any, are needed to make the act more capable of enforcement?

Question 5.—What provisions are there in the act which may be deemed unreasonable?

Question 6.—What provisions, if any, are there in the act which should be made more stringent?

Question 7.—Is it desirable to have a uniform child labor law in the different States, and if so, why?

Question 8.—What objections are there to having a uniform child labor law in the different States?

Please send answers before June 1, 1910, to AMASA M. EATON, Providence, R. I.

Over one thousand copies of this circular were distributed by mail to persons and organizations throughout the country believed to be interested, including a considerable number believed to be hostile to child labor legislation.

The chairman and secretary of your committee next made a careful examination and analysis of the standard child labor law aforesaid, and prepared a tentative draft of a uniform child labor law. This tentative draft was then submitted to the officers of the National Child Labor Committee and to all the members of your committee.

A little later, a considerable number of very valuable suggestions having been received in response to the circular sent out, a new draft of a uniform law was prepared by the chairman and secretary of your committee.

This draft of a law your committee now submits for your consideration the same being appended hereto. The members of the committee being widely scattered, it has been impossible for any of them, other than the chairman and secretary, since the meeting in Washington to get together for personal conference as to the details of the law. Your committee does not consider that the draft submitted is yet perfect, and each member reserves to himself the right to suggest changes and additions.

The draft appended is accompanied by a preface and notes which it is believed will be of service in considering the act itself.

The whole matter of the employment of child labor is being considered throughout the country in a way and to an extent which we believe is unparalleled.

Besides the National Child Labor Committee, there are numerous State committees and other organizations which are taking an active interest in the matter of the conservation of the children of the country.

During the year efforts were made in Massachusetts and Louisiana to repeal existing laws prohibiting the employment of children in theaters. In each instance the Legislatures, after full discussion, refused to alter the existing laws.

New laws in favor of the child have been passed during the year in Rhode Island, Massachusetts, New York, Ohio, Virginia, Maryland and Kentucky.

It is becoming more and more recognized that the welfare of our children is a matter of national importance, to be zealously safe-guarded. The manufacturers are beginning to

see that it is important that the laws regulating child labor should be uniform in the different States. In the absence of such uniformity one manufacturer can gain an unfair advantage over another.

HOLLIS R. BAILEY, *Chairman*.

AMASA M. EATON.

FREMONT WOOD.

NATHAN WILLIAM MacCHESNEY.

A. T. STOVALL.

AUGUST 1, 1910.

PREFACE TO THE UNIFORM CHILD LABOR LAW.

This law is based upon the so-called standard child labor law, prepared by the National Child Labor Committee. Its provisions for the most part are already in force in a considerable number of States. The theory upon which the law is framed is that it should embody the best features of the laws now in force, and at the same time be fair and reasonable.

In some few instances the law may go beyond what has as yet been enacted, but for the most part the law has already been tested.

The committee has aimed to present a law which any State can adopt without lowering its present standard.

The notes which are interspersed throughout the law will furnish information concerning the history, origin and purpose of some of the sections. These references do not purport to be a complete list.

UNIFORM CHILD LABOR LAW.

Be it enacted, etc., as follows :

CHILDREN UNDER FOURTEEN.

SECTION 1. No child under fourteen years of age shall be employed, permitted or suffered to work in, about or in connection with any —

Mill,
Factory,
Workshop,
Quarry,
Mercantile establishment,
Tenement-house manufactory or workshop,
Store,
Business office,
Telegraph or telephone office,
Restaurant,
Bakery,
Hotel,
Barber shop,
Apartment house,
Bootblack stand or parlor, or in the
Distribution or transmission of merchandise or messages.

This section, with slight modifications, is in force in the following States : —

Delaware, Acts of 1909, chapter 121, section 1 (applies to "any gainful occupation").

District of Columbia, Acts of United States Congress, 1907-08, chapter 209, section 1.

Illinois, Revised Statutes, 1905, chapter 48, section 20.

Louisiana, 1908, Act 301, section 1 ("nor in any other occupation not herein enumerated which may be deemed injurious or unhealthful").

New York Laws of 1909, chapter 36, section 70.

Oklahoma, Child Labor Law, 1908, section 1.*

Pennsylvania, Acts of 1905, Act 226, section 2 ("no child under fourteen years shall be employed in any establishment").

In the Supreme Court of the United States, Feb. 28, 1898, in the case of *Holden v. Hardy*, 169 U. S. 366 (Utah case), the sections of the statute (Laws of 1896, page 219) are upheld, which among other regulations prohibit "the employment of women, and of children under the age of fourteen years, in underground mines."

In the case of *Lenahan v. Pittston Coal Mining Co.*, 67 Atl. 642, the Supreme Court of Pennsylvania said: "The Legislature, under its police power, can fix an age limit below which boys should not be employed, etc."

In the case of *State v. Shorey*, 86 Pac. 881, the Supreme Court of Oregon, referring to the inability of the State to interfere with contract in the employment of adult males, said: "But laws regulating the right of minors to contract do not come within this principle. They are not *sui juris*, and can only contract to a limited extent. They are wards of the State and subject to its control. As to them the State stands in the position of *parens patriæ*, and may exercise unlimited supervision and control over their contracts, occupation and conduct, and the liberty and right of those who assume to deal with them. This is a power which inheres in the government for its own preservation, and for the life, person, health and morals of its future citizens, etc."

SECTION 2. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in *any business or service whatever* during any part of the term during which the public schools of the district in which the child resides are in session.

This section is copied, slightly altered, from the following statutes:—

District of Columbia, Acts of United States Congress, 1907-08, chapter 209, section 1.

Colorado, Laws of 1904, section 417.

Illinois, Revised Statutes, 1905, chapter 48, section 20.

Kansas, Laws of 1909, chapter 65, section 1.

Kentucky, Acts of 1908, chapter 66, section 1.

Massachusetts Acts of 1902, chapter 44, section 1.

Minnesota, General Law, 1907, chapter 299, section 1.

Ohio, Annotated Statutes, 1904, section 4022-2.

CHILDREN UNDER SIXTEEN.

SECTION 3. No child under the age of sixteen years shall be employed, permitted or suffered to work at any of the following occupations or in any of the following positions:—

Sewing machine belts in any workshop or factory, or assisting therein in any capacity whatever;

Adjusting any belt to any machinery;

Oiling, wiping or cleaning machinery or assisting therein ;
Operating or assisting in operating —
Circular or band saws ;
Wood shapers ;
Wood jointers ;
Planers ;
Sandpaper or wood-polishing machinery ;
Picker machines ;
Machines used in picking wool ;
Machines used in picking cotton ;
Machines used in picking hair ;
Machines used in picking any upholstering material ;
Paper-lacing machines ;
Leather-burnishing machines ;
Burnishing machines in any tannery or leather manufactory ;
Job or cylinder printing presses operated by power other than foot power ;
Emery or polishing wheels used for polishing metal ;
Woodturning or boring machinery ;
Stamping machines used in sheet-metal and tinware manufacturing ;
Stamping machines in washer and nut factories ;
Corrugating rolls, such as are used in roofing and washboard factories ;
Steam boilers ;
Steam machinery ; or other
Steam-generating apparatus ;
Dough brakes ; or
Cracker machinery of any description ;
Wire or iron straightening machinery ;
Rolling mill machinery, punches or shears ;
Washing, grinding or mixing mills ;
Calendar rolls in rubber manufacturing ;
Laundering machinery.

Sections 3 and 4 are substantially in effect in the following States : —

Illinois, Revised Statutes, 1905, chapter 48, section 20j.

Minnesota, General Law, 1907, chapter 299, section 11.

New York, Laws of 1909, chapter 36, section 93.

Oklahoma, Child Labor Law, 1908, section 2.

SECTION 4. No child under the age of sixteen years shall be employed, permitted or suffered to work in any capacity in, about or in connection with the —

Preparing any composition in which dangerous or poisonous acids are used ;

Manufacture of paints, colors or white lead ;

Dipping, drying or packing matches ;

Manufacturing, packing or storing powder, dynamite, nitro-glycerine compounds, fuses or other explosives ;

Manufacture of goods for immoral purposes ;

Nor in, about or in connection with any —

Mine ;

Coal breaker ;

Laundry ;

Tobacco warehouse ;

Cigar factory ; or other

Factory where tobacco is manufactured or prepared ;

Distillery ;

Brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped or bottled ;

Hotel ;

Theatre ;

Concert hall ;

Drug store ;

Saloon or place of amusement ;

Nor in operating any automobile, motor car or truck ;

Nor in bowling alleys ;

Nor in any other employment declared by the state board of health to be dangerous to lives or limbs, or injurious to the health or morals of children under the age of sixteen.

Cf. Minnesota, General law, 1907, chapter 299, section 11.

Montana, Laws of 1907, chapter 99, section 1.

New York, Laws of 1909, chapter 36, section 93.

Oklahoma, Child Labor Law, 1908, sections 2 and 3.

SECTION 5. The state board of health may from time to time determine whether or not any particular trade, process of manufacture or occupation, or any particular method of

carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of minors under sixteen years of age employed therein to justify their exclusion therefrom, and may prohibit their employment therein.

Cf. Kentucky, 1906, chapter 52, section 2 (duty of city and county physician, applied to minors under sixteen years).
Massachusetts, Acts of 1902, chapter 106, section 44.
Oklahoma, General Labor Law, 1908, Article V., section 2.

In the case of *State v. Shorey*, 86 Pac. 881, the Supreme Court of Oregon defended the constitutionality of the law regulating the hours for employment of children under sixteen, and said: "It is competent for the State to forbid the employment of children in certain callings, merely because it believes such prohibition for their best interest, although the prohibited employment does not involve a direct danger to morals, decency, or of life or limb."

SECTION 6. Females under the age of sixteen years shall not be employed, permitted or suffered to work in any capacity where such employment compels them to remain standing constantly. Every person who shall employ any female under the age of sixteen in any place or establishment mentioned in section one shall provide suitable seats, chairs or benches for the use of the females so employed, which shall be so placed as to be accessible to said employees; and shall permit the use of such seats, chairs or benches by them when they are not necessarily engaged in the active duties for which they are employed, and there shall be provided at least one chair to every three females.

Many States require provision of seats for all female employees,
e.g. : —

California, Code of 1906, Act 1098, section 5.
Colorado, Annotated Statutes, section 3604.
Delaware, Revised Code, 1893, chapter 127, section 1.
District of Columbia, Acts of United States Congress, 1894-95, chapter 192, section 1.
Georgia, Code, 1895, section 127.
Indiana, Statutes of 1901, section 2246.
Iowa, Code, section 4999.
Kansas, Laws of 1901, section 3842.
Kentucky, 1906, chapter 52, section 6 ("girls or adult women").

Louisiana, 1908, Act 301, section 13.

Massachusetts, Acts of 1902, chapter 106, section 41.

Nebraska, Criminal Code, section 6942-*c*.

Ohio, Annotated Statutes, section 4364-69.

Oklahoma, General Labor Law, 1908, Article V., section 17.

Oklahoma, Child Labor Law, 1908, section 3.

Pennsylvania, Digest, 1895, page 902, section 1.

Florida makes same provision relating to all employees. See General Statute, 1906, section 3235.

See also Minnesota, General Law, chapter 299, section 11.

New York, Laws of 1907, chapter 36, sections 93 and 170.

SECTION 7. No child under sixteen years of age shall be employed, permitted or suffered to work in, about or in connection with any place or establishment named in section one unless the person, firm or corporation employing such child procures and keeps on file, and accessible to any truant officer or inspector of factories, mercantile establishments or mines or other authorized inspector, an employment certificate as hereinafter prescribed; and keeps two complete lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the place or establishment in which such children are employed.

This section substantially is in effect in the following States:—

California, Laws of 1906, chapter 1611, section 3.

Indiana, Annotated Statutes of 1901, section 7087*b*.

Massachusetts, Acts of 1902, chapter 106, section 29.

Minnesota, General Law, 1907, chapter 299, sections 2 and 8.

Nebraska, Acts of 1907, chapter 66, section 2.

New York, Laws of 1909, chapter 36, sections 75 and 76.

Oklahoma, General Labor Law, 1908, Article V., section 3.

Oklahoma, Child Labor Law, 1908, section 8.

Sections 7 to 15 follow in part Pennsylvania, Acts of 1905, Act 226, sections 5 and 6.

Note.—Court ruling “The duty of obtaining a certificate devolves absolutely on the employer, and the parents’ failure to inform him of the age of child unlawfully employed is no excuse.” 71 N. E. Rep. 922.

In the case of *American Car & Foundry Co. v. Amentraut*, 73 N. E. 766, the Supreme Court of Illinois held “that the employer must ascertain, at his peril, that his employees are over fourteen years of age, etc.”

SECTION 8. Inspectors of factories, mercantile establishments or mines, and other authorized inspectors and truant officers, may require that the employment certificates and lists provided for in this act shall be produced for their inspection.

Cf. California, 1906, Act 1828, section 5.

Minnesota, General Law, 1907, chapter 299, section 10.

New York, Laws of 1909, chapter 36, section 76.

SECTION 9. On termination of the employment of a child whose employment certificate is on file, such certificate shall be forthwith surrendered by the employer to the person who issued the same.

Cf. Minnesota, General Law, 1907, chapter 299, section 2.

Nebraska, Acts of 1907, chapter 66, section 2.

Ohio, Laws of 1910. "The school authority shall not issue age and schooling certificates without the written pledge of the employer to employ the child legally, and also his written agreement to return to the school authority the child's age and schooling certificate within two days from the date of the child's leaving his service, stating the reason for such withdrawal or dismissal."

SECTION 10. An employment certificate shall be issued only by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the school committee: *provided*, that no member of a school committee or other person authorized as aforesaid shall have authority to issue such certificate for any child then in or about to enter such person's own employment or the employment of a firm or corporation of which he is a member, officer or employee.

Sections 10 to 16 are enforced with slight changes in the following States: —

California, 1906, chapter 1611, section 3.

District of Columbia, Acts of United States Congress, 1907-08, chapter 209, sections 2, 3 and 4.

Louisiana, 1908, Act 301, section 2.

Minnesota, General Law, 1907, chapter 299, section 3.

Nebraska, Acts of 1907, chapter 66, sections 3 to 10.

SECTION 11. The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and filed the following papers, duly executed:—

(1) The school record of such child properly filled out and signed, as provided in this act.

(2) A passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child.

(3) The affidavit of the parent or guardian or custodian of a child (which shall be required, however, only in case no one of the above-mentioned proofs is obtainable), showing the place and date of birth of such child. Said affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath without demanding or receiving any fee therefor.

Cf. Iowa, Laws of 1905, chapter 145, section 1.

Massachusetts, Acts of 1902, chapter 106, section 30.

Minnesota, General Law, 1907, chapter 299, section 4.

Nebraska, Acts of 1907, chapter 66, section 3.

New York, Laws of 1909, chapter 36, section 71.

SECTION 12. A duly attested transcript of the birth certificate, filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, shall be *prima facie* evidence of the age of such child for the purposes of this act.

Cf. New York, Laws of 1909, chapter 36, section 71 (*a*).

SECTION 13. No employment certificate shall be issued until the child in question has personally appeared before and been examined by the officer issuing the certificate, nor until such officer, after making such examination, has signed and filed in his office a statement that the child can read and legibly write simple sentences in the English language, and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sufficiently sound health and physically able to perform the work which it intends to do, which shall be stated.

In all cases such normal development, sound health and physical fitness shall be determined by a medical officer of the board or department of health or by a physician appointed by the school committee.

Section 13 is substantially in force in many States, *e.g.*:—

Massachusetts, Acts of 1902, chapter 106, section 28 (2).

Minnesota, General Law, 1907, chapter 299, section 4.

New York, Laws of 1909, chapter 36, section 73.

Oklahoma, Child Labor Law, 1908, section 10.

SECTION 14. Every such employment certificate shall state the name, sex, the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding sections have been duly examined, approved and filed, and that the child named in such certificate has appeared before the officer signing the certificate and has been examined.

Every such certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. It shall show the date of its issue.

The provisions of sections 14 and 15 are substantially in effect in the following States:—

Minnesota General Law, 1907, chapter 299, section 5.

New York, Laws of 1909, chapter 36, section 72.

Oklahoma, Child Labor Law, 1908, section 10.

SECTION 15. The school record required by this act shall be signed by the principal or chief executive officer of the school which such child has attended, and shall be furnished on demand to a child entitled thereto.

It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and sixty days during the year previous to his arriving at the age of fourteen years, or during the year previous to applying for such school record, and is able to read and write simple sentences in the English language, and has received during such period instruction equivalent to five yearly grades in reading, spelling, writing, English grammar and geography, and is familiar with the fundamental operations of arithmetic up to and including fractions.

Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian.

Cf. Minnesota General Law, 1907, chapter 299, section 6.

New York, Laws of 1909, chapter 36, section 73.

Ohio.

Illinois.

SECTION 16. The superintendent of schools or other person authorized to issue employment certificates shall transmit between the first and tenth days of each month, to the office of the factory inspector or other authorized inspector, upon blanks to be furnished by him, a list of the names of the children to whom certificates have been issued, and also a list of the names of the children to whom certificates have been refused, together with the ground for refusal. Such lists shall give the name of the prospective employer and the nature of the occupation the child intends to engage in.

Cf. Minnesota, General Law, 1907, chapter 299, section 7.

CHILDREN APPARENTLY UNDER SIXTEEN.

SECTION 17. The inspector of factories or other authorized inspector or the truant officer shall make demand on any employer in or about whose place or establishment a child apparently under the age of sixteen years is employed, or permitted or suffered to work, and whose employment certificate is not filed as required by this act, that such employer shall either furnish him within ten days satisfactory evidence that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such factory. The inspector of factories or other authorized inspector or the truant officer shall require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate, and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child.

This section is substantially in force in the following States:—

Minnesota, General Law, 1907, chapter 299, section 2.

Nebraska, Acts of 1907, chapter 66, section 2.

New York, Laws of 1909, chapter 36, sections 76 and 167.

Oklahoma, Child Labor Law, 1908, section 8.

CHILDREN UNDER EIGHTEEN.

SECTION 18. No child under the age of eighteen years shall be employed, permitted or suffered to work in, about or in connection with —

Blast furnaces ;

Docks ;

Wharves ;

In the outside erection and repair of electric wires ;

In the running or management of elevators, lifts or hoisting machines ;

In oiling hazardous and dangerous machinery in motion ;

At switch tending ;

Gate tending ;

Track repairing ;

As brakeman ;

Firemen ;

Engineers ;

Motormen ;

Conductors upon railroads ;

Pilots ;

Firemen ; or

Engineers upon boats or vessels engaged in the transportation of passengers or merchandise ;

In or about establishments wherein nitroglycerine —

Dynamite,

Dualin,

Guncotton,

Gunpowder, or

Other high or dangerous explosives are manufactured, compounded or stored ;

Nor in any other employment declared by the state board of health to be dangerous to the lives or limbs or injurious to the health or morals of children under the age of eighteen.

With a slightly different list of prohibited employments this section is in force in New York, Laws of 1909, chapter 36, section 93.

Cf. Massachusetts, Acts of 1902, chapter 350, section 1 (elevators).

Michigan, Acts of 1907, Act 169, section 3 (any dangerous employment).

SECTION 19. The state board of health may from time to time determine whether or not any particular trade, process of manufacture or occupation, or any particular method of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous to the lives or limbs or injurious to the health or morals of minors under eighteen years of age employed therein to justify their exclusion therefrom, and may prohibit their employment therein.

The employment of a minor in violation of this statute is negligence, and the employee does not assume the risk of injury. 105 N. W. Rep. 755.

Nor does the fellow-servant doctrine apply to one whose employment the law forbids. 116 N. W. Rep. 1107.

But he may be charged with contributory negligence. 112 N. W. Rep. 691.

Cf. Massachusetts Acts of 1902, chapter 106, section 44.

Michigan, Acts of 1907, Act 169, section 3.

SECTION 20. No female under the age of eighteen years shall be employed, permitted or suffered to work in or about any mine, quarry or coal breaker.

Note.—All states with mining laws prohibit employment of all females. Minors are here specified, as all reference to regulation of adult labor is avoided in this draft.

HOURS OF LABOR.

SECTION 21. In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day.

See New York, Laws of 1910, chapter 342, section 161*a*.

A law regulating the hours of labor and fixing the maximum of ten hours a day for women in laundries was held constitutional in 1908 by the Supreme Court of the United States in the case of *Muller v. Oregon*, 208 U. S. 412.

In the case of *Broad v. Woydt*, 78 Pac. 1004, the Supreme Court of Washington decided that a city ordinance making 8 hours a day's work on any work of municipal construction, etc., is not repugnant to the 14th amendment of the Constitution of the United States.

SECTION 22. No boy under the age of sixteen years and no girl under the age of eighteen years shall be employed, permitted or suffered to work at any gainful occupation other than domestic service or work on a farm more than forty-eight hours in any one week, nor more than eight hours in any one day ; or before the hour of seven o'clock in the morning or after the hour of seven o'clock in the evening. The presence of a child in any establishment during working hours shall be *prima facie* evidence of its employment therein.

This section, prohibiting night work and limiting to an eight-hour day for children under sixteen, applies with slight variations in the following States :—

Colorado, Laws of 1904, section 1801e2.

District of Columbia, Acts of the United States Congress, 1907-08, chapter 209, section 8.

Illinois, Revised Statutes of 1905. chapter 48, section 20i.

Kansas, Acts of 1909, chapter 65, section 2 (hours 7 A.M. to 6 P.M.).

Kentucky, 1906, chapter 52, section 1 (sixteen years for both sexes ; hours forbidden, 7 P.M. to 6 A.M.).

Louisiana, 1908, Act 301, section 9, “ Presence of child *prima facie* evidence.”

Massachusetts, Revised Laws of 1902, chapter 106, sections 27, 28 (prohibits night work for children under fourteen in all occupations and for minors under eighteen and all women in textile factories).

Michigan, 1901, Act 113, Section 2 (age, sixteen years ; hours, 6 P.M. to 7 A.M.).

New York, Laws of 1909, chapter 36, section 77 (1) (age sixteen for both sexes ; hours of work limited between 8 A.M. and 5 P.M.).

Ohio, Acts of 1904, page 321, section 6986-8.

The constitutionality of the law regulating hours of employment of women and children has been recognized since its establishment by the Supreme Court of Massachusetts in 1876 (120 Mass. 385). So well established was this principal that although many cases have been tried under a similar law in New York, no case has been carried to the Court of Appeals in New York.

The regulation of hours for the employment of women has been involved in many cases. In 1895 the Supreme Court of Illinois, *Ritchie v. The people*, 55 Ill. 98, declared the law unconstitutional in its application to women as “ a purely arbitrary restriction upon the fundamental rights of citizens to control their own time, and

substitute the judgment of the Legislature for the judgment of the employer and employee in matters about which they are competent to agree with each other." But this decision did not affect the validity of the law in relation to the employment of minors. The words "competent to agree with each other" are significant.

The case of *Low v. Printing Co.*, 59 N. W. 362, decided by the Supreme Court of Nebraska in 1894, made clear that the objection to the law was that it aimed to prevent "persons legally competent to enter into contracts, etc." The fact seems clearly recognized that a minor child is not such a person. The Illinois court decision, above referred to, concluded by saying: "We do not wish to be understood by anything herein said as holding that section 5 would be invalid if it was limited in its terms to females who are minors."

The Supreme Court of California, in holding void an ordinance of the city of Los Angeles which would regulate the hours of labor on all contracts, says: "If the service to be performed were . . . against public policy . . . or such as might be unfit for certain persons, for example, females or infants, the ordinance might be upheld, etc."

Wenham v. State, 5 Neb. 394.

State v. Buchanan, 29 Wash. 603.

In the case of *Cantwell et al. v. State of Mo.*, 179 Mo. 245, the Supreme Court of Missouri held that the Missouri 8-hour law for minors was valid, and its decision was affirmed by the Supreme Court of the United States on authority of 169 U. S. 366; 197 U. S. 11; 3 Pet. 280, and 179 Mo. 245.

Held constitutional. *Commonwealth v. Hamilton Mfg. Co.*, 120 Mass. 383.

Pennsylvania law limiting hours of labor for adult females is constitutional. *State v. Beatty*, 15 Superior Court, 5.

SECTION 23. Every employer shall post in a conspicuous place in every room where any boy under the age of sixteen years or any girl under the age of eighteen years is employed, permitted or suffered to work, a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the inspector of factories or other authorized inspector, and the employment of any minor for a longer time in any day so stated or at any time other than as stated in said printed notice shall be deemed a violation of the provisions of this act.

Applying to minors under eighteen years, in force in: —

California, Laws of 1906, Act 1611, section 3.

Connecticut, Laws of 1909, chapter 220, section 1.

Kentucky, 1906, chapter 52, section 1 (applies to minors under sixteen years).

Massachusetts, Acts of 1902, chapter 106, section 23 (applies to minors under eighteen years and all women).

Court Ruling No. 120 Massachusetts, 383.

STREET TRADES.

SECTION 24. No male child under ten and no girl under sixteen years of age shall, in any city of the first or second class, sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise in any street or public place. No child shall work as a bootblack in any street or public place unless he is over ten years of age.

Sections 24 to 29. The employment of children in street trades has not received the attention it deserves in this country. Many States are at present without any provisions for its regulation. The most advanced steps have been taken in New York, Massachusetts, Oklahoma, Wisconsin, in the District of Columbia and in Cincinnati, O.

District of Columbia, Acts of United States Congress, 1907-08, chapter 209, section 11.

New York, Acts of 1907, chapter 588, section 174.

Oklahoma, Child Labor Law, 1908, section 4.

Wisconsin, Acts of 1909, section 1728, (*p*), (*q*) and (*r*).

See also Ordinances of City Council, Cincinnati, O., 1909.

SECTION 25. No male child under fourteen years of age shall sell or expose or offer for sale in any street or public place any of the articles mentioned in section twenty-four, or work as a bootblack therein, unless a permit and badge as hereinafter provided shall have been issued to him by the superintendent of schools or by a person authorized by him in writing, or, where there is no superintendent of schools, by a person authorized by the school committee, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian, then

on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of ten years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years of age are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted.

Cf. District of Columbia, Acts of the United States Congress, chapter 209, sections 12, 13 and 14 (applies to children under sixteen).

Massachusetts, Acts of 1902, chapter 65, section 67.

New York, Acts of 1907, chapter 588, section 175.

Wisconsin, Acts of 1909, section 1728 (*s*) and (*t*).

SECTION 26. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and shall describe the color of hair and eyes, the height and weight, and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed, and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding

to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

Cf. New York, Acts of 1907, chapter 588, section 176.

Wisconsin, Acts of 1907, section 1728*u*.

SECTION 27. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first or second class as a newsboy or bootblack, or shall sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police or truant officer.

Cf. New York, Acts of 1907, chapter 588, section 177.

Wisconsin, Acts of 1909, section 1728*v*.

SECTION 28. No child to whom a permit and badge are issued as provided for in sections twenty-four, twenty-five, twenty-six and twenty-seven of this act shall work as a bootblack, sell or expose or offer for sale any newspapers, magazines, periodicals or other merchandise in any street or public place after eight o'clock in the evening or before six o'clock in the morning.

Cf. New York, Acts of 1907, chapter 588, section 178 (prohibited hours, 10 P.M. to 6 A.M.).

Wisconsin, Acts of 1909, section 1728*w* (prohibited hours for newsboys, 10 P.M. to 6 A.M.; for bootblacks and other street trades, 7 P.M. to 7 A.M.).

SECTION 29. Any child who shall work in any city of the first or second class in any street or public place as a bootblack or newsboy, or who shall sell or expose or offer for sale newspapers, magazines, periodicals or other merchandise, in

violation of the provisions of this act, shall be arrested and brought before the juvenile court or a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution, to be dealt with according to law. The permit and badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or truant officer, and such child shall surrender the permit and badge so revoked upon the demand of any truant officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the working as a bootblack, or the sale or offering for sale of newspapers, magazines, periodicals or other merchandise in any street or public place by any child after notice of the revocation of such permit and badge, shall be deemed a violation of this article and shall subject the child to the penalties provided for in this act.

Cf. Massachusetts, Acts of 1906, chapter 151, section 18.

New York, Acts of 1907, chapter 588, sections 179 and 179a.

Ohio, Annotated Statutes, section 4022-5.

GENERAL PROVISIONS.

SECTION 30. Inspectors of factories and other authorized inspectors and truant officers may visit any place of employment mentioned in either section one, three, four, eighteen, twenty or twenty-two, and ascertain whether any minors are employed therein contrary to the provisions of this act; and they shall report any cases of such illegal employment to the school authorities; and truant officers shall also report the same to the inspector of factories or other authorized inspector.

It shall be the duty of factory and other duly authorized inspectors to make complaints for offenses under this act and prosecute the same.

This shall not be construed as a limitation upon the right of other persons to make and prosecute such complaints.

This section, adapted to the enforcing agencies in various States, is substantially in force in :—

District of Columbia, Acts of United States Congress, 1907–08, chapter 209, section 7.

Illinois, Revised Statutes, 1905, chapter 48, section 20l.

Kansas, Acts of 1905, chapter 278, section 3.

Massachusetts, Acts of 1906, chapter 499, section 2.

Minnesota, General Law, 1907, chapter 299, section 10.

Ohio, Annotated Statutes, section 4022–5.

In the case of *State v. Vickens*, 84 S. W. 908, the Supreme Court of Missouri held that the law authorizing the appointment of factory inspectors is a valid exercise of the police power of the State.

PENALTIES.

SECTION 31. Whoever employs any child, and whoever having under his control as parent, guardian or otherwise, any child, permits or suffers such child to be employed or to work in violation of any of the provisions of this act, shall for such offense be fined not less than five nor more than two hundred dollars, or be imprisoned for not less than ten days nor more than thirty days, or both, in the discretion of the court.

Sections 31 to 41 are slightly altered from laws in force in the following States :—

California, Laws of 1906, chapter 1611, sections 3 and 4.

Illinois, Revised Statutes of 1905, chapter 48, section 20m.

Iowa, Acts of 1906, chapter 103, section 6.

Kansas, Acts of 1905, chapter 278, section 4.

Louisiana, 1908, Act 301, section 7.

Massachusetts, Acts of 1906, chapter 499, section 1.

Minnesota, General Law of 1907, chapter 299, section 9 (provides fines, but not imprisonment).

Ohio, Acts of 1904, page 321, section 6989–9.

Sections 31 to 41. Compare New York penal law, Article 120, Laws of 1909, chapter 88, section 1275.

It has been the policy of those drafting this uniform law to make the minimum penalty small, with a view to a more rigid enforcement of the various penalty sections. In nearly every State having well-established departments of factory inspection the penalties are heavier, both as to fines and imprisonments. In some instances it has been observed that the heavy minimum penalty tended to thwart the purpose of the law by causing courts or juries to fail to convict.

SECTION 32. Whoever continues to employ any child in violation of any of the provisions of this act, after being notified thereof by a truant officer or an inspector of factories or other authorized inspector, shall for every day thereafter that such employment continues be fined not less than five nor more than twenty dollars.

Cf. Massachusetts, Acts of 1906, chapter 499, section 1.

SECTION 33. Any person, firm or corporation retaining an employment certificate in violation of section nine of this act shall be fined not less than five dollars nor more than fifty dollars.

Cf. Massachusetts, Acts of 1906, chapter 499, section 4.

SECTION 34. Any person authorized to sign any certificate, affidavit or paper called for by this act, who knowingly certifies to any materially false statement therein, shall be fined not less than five dollars nor more than one hundred dollars.

SECTION 35. A failure by an employer to produce to a truant or factory officer or authorized inspector any employment certificate or list required by this act shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not so listed.

Cf. New York, Laws of 1909, chapter 36, section 167.

Cf. also Indiana, Annotated Statutes, 1901, section 7770 (general penalty clause).

Louisiana, 1908, Act 301, section 11.

Massachusetts, Acts of 1906, chapter 499, section 4.

SECTION 36. In case any employer shall fail to produce and deliver to a factory inspector or other authorized inspector or truant officer, within ten days after demand made pursuant to section seventeen of this act, the evidence of age therein required, and shall thereafter continue to employ such child or permit or suffer such child to work in such place or establishment, proof of the giving of such notice

and of such failure to produce and file such evidence shall be prima facie evidence of the illegal employment of such child in any prosecution brought therefor.

Cf. New York, Laws of 1909, chapter 36, section 177.

SECTION 37. Any child working in or in connection with any of the establishments or places or in any of the occupations mentioned in either section one, three, four, eighteen, twenty or twenty-two, who refuses to give to the factory inspector or other authorized inspector or the truant officer his or her name, age and place of residence, shall be forthwith conducted by the inspector or truant officer before the judge of the juvenile or probate court, or other proper municipal or police authority, for examination and to be dealt with according to law.

SECTION 38. Any employer who fails to post the printed notice required by section twenty-three of this act in the manner therein specified shall be fined not less than five nor more than fifty dollars.

SECTION 39. Any superintendent of schools or other person issuing employment certificates who fails to comply with the provisions of this act shall be fined not less than five dollars nor more than twenty-five dollars.

SECTION 40. Every employer who fails to provide suitable seats, chairs or benches, as provided in section six of this act, shall be fined not less than ten dollars nor more than fifty dollars.

SECTION 41. Every employer who fails to procure and keep or file employment certificates or who fails to keep and post lists, as provided in section seven of this act, shall be fined not less than ten dollars nor more than fifty dollars.

UNIFORM WILLS ACT.

AN ACT RELATIVE TO WILLS EXECUTED WITHOUT THIS STATE, AND TO PROMOTE UNIFORMITY AMONG THE STATES IN THAT RESPECT.¹

SECTION 1. *Be it enacted, etc.*, That a last will and testament, executed without this state in the mode prescribed by the law, either of the place where executed or of the testator's domicile, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state: *provided*, said last will and testament is in writing and subscribed by the testator.

¹ In final form approved by the Conference, August, 1910.

UNIFORM DESERTION ACT.

AN ACT RELATIVE TO DESERTION AND NON-SUPPORT OF WIFE BY HUSBAND, OR OF CHILDREN BY EITHER FATHER OR MOTHER, AND PROVIDING PUNISHMENT THEREFOR; AND TO PROMOTE UNIFORMITY BETWEEN THE STATES IN REFERENCE THERETO.¹

SECTION I. *Be it enacted, etc.,* (1)

That any husband who shall, without just cause, desert or wilfully neglect or refuse to provide for the support and maintenance of his wife in destitute or necessitous circumstances; or any parent who shall, without lawful excuse, (2) desert or wilfully neglect or refuse to provide for the support and maintenance of his or her (3) child or children under the age of 16 years in destitute or necessitous circumstances, shall be guilty of a crime (4) and, on conviction thereof, shall be punished by fine not exceeding five hundred dollars, or imprisonment in the _____ (5), not exceeding two years, (6) or both, with or without hard labor, in the discretion of the Court. (7)

1. This Act, throughout, follows very closely the Act of Congress of March 23rd, 1906, for the District of Columbia, the principles of which are very fully discussed in the monograph of William H. Baldwin, Esq., of the Board of Managers of the Associated Charities of Washington, D. C., entitled "Family Desertion and Non-Support Laws." Nearly every State has some provision relating to this subject. The Acts of Assembly in many States are quite full and comprehensive. The Act adopted by Congress for the District of Columbia was the result of correspondence by the Board of Associated Charities of Washington, with Governors, Attorneys-General, District Attorneys, and prominent lawyers of many States. This Act of Congress works very satisfactorily in the District of Columbia. At the meeting of the Committee in Wash-

¹ Prepared under the direction of and recommended by the Commissioners on Uniform State Laws in National Conference.

ington in January, 1910, Mr. Baldwin was present, and greatly assisted the Committee with advice and suggestions and information as to the practical workings of the Act in the District of Columbia.

Acts of Congress differ very much from Acts of Assembly of the various States, in that they are much more concise, and generally embrace, by way of proviso, matters that the legislatures of the various States are inclined to express in separate sections. Each mode of expression has its advantages. But, in view of the fact that the courts of each separate State are so often called upon to determine the constitutionality of various parts of Acts of Assembly, and since one part of an Act may be sustained as constitutional, and another part rejected as unconstitutional, it seems preferable for State legislatures to divide every Act into separate and distinct sections. Therefore, the provisions of Section I of the District of Columbia Act have been divided into several sections.

2. It will be observed that in line 1, "wife desertion" must be "without just cause," whereas in line 5 "child desertion must be "without lawful excuse." The reason for the distinction is this: Wife desertion is a cause of divorce as well, and in divorce proceedings such desertion must have been "without just cause" on the part of the *deserted* wife. But in the case of child desertion there must be a "lawful excuse" on the part of the *deserting* parent. In other words, in the first instance the ground justifying the desertion must be furnished or occasioned by the deserted party. In the second instance the excuse or ground for desertion must be furnished by the deserting party.

3. The draft of this Bill as reported to the Conference at Chattanooga included illegitimate as well as legitimate children, largely upon the strong recommendation of Mr. W. H. Baldwin, of Washington, D. C. The District of Columbia Act does not include illegitimate children, but a bill was introduced at the last session of Congress, to bring them within its provisions, and received the approval of the Judiciary Committee of both Houses. Nebraska and Ohio, however, seem to be the only States whose Desertion Laws apply to illegitimate as well as legitimate children. While there are strong moral and legal grounds for so doing, yet inasmuch as the Bastardy Laws of every State make some provision for the support of illegitimate children, it was deemed advisable by the Conference not to combine Family Desertion with the desertion of a "*nullius filius*," since the proper remedy would be by amendment of the Bastardy Laws.

4. "Family Desertion," according to the tables prepared by Mr. Baldwin, is made a felony in six States, viz., Indiana, Michigan, Nebraska, New York, Ohio, and Wisconsin; a misdemeanor in thirty-eight States, including the District of Columbia: while in five States there is no law on the subject — to wit, in Iowa, Nevada, Oregon, Tennessee and Texas. Some States, like Pennsylvania, treat Family Desertion in two ways, either as a quasi-criminal offense as under the Act

of April 13, 1867, P. L. 78, where the offender is haled before the court of Quarter Sessions on information made before a Justice of the Peace or other Magistrate, and after hearing, without a jury, the Court may order him to pay a certain sum for the support and maintenance of his wife or children; or as a misdemeanor, as under the Act of March 13, 1903, P. L. 26. Under this latter Act, which is cumulative, the offender is entitled to trial by jury. The penalty is imprisonment or fine, or both; the fine if any, to be paid or applied in whole or in part to the wife or children, as the court may direct. In Pennsylvania a civil remedy is also granted to the wife against the husband by the Act of April 27, 1909, P. L. 182. Such civil remedy obtains in many other States.

As pointed out by Mr. Baldwin in his study on "Family Desertion and Non-Support," it is very essential that the offense of desertion and non-support be raised to the grade of a crime, in order that it may become an extraditable offense, as many instances occur where the husband removes to another State, leaving his family helpless and destitute. But as thirty-eight States and Territories have made it a misdemeanor, and since under the Act of Congress of February 12th, 1793, any person charged with the commission of a felony or other crime, is subject to extradition, the conference substituted the word "crime" for "misdemeanor." In one State at least, South Carolina, and probably others, a misdemeanor is not punishable by confinement at hard labor.

5. Here will be inserted the place of imprisonment.

6. Unless there is a constitutional provision in any state limiting the term of imprisonment for a misdemeanor to one year or less, this clause "not exceeding two years" is clearly within the power of the Legislature. The committee, when at Washington, adopted by way of amendment to Section IV of the printed report, now Section IV, the words "for a period not exceeding two years," but omitted to make a similar amendment to Section I. This clause therefore is added that Sections I and IV may correspond. While "twelve months" is the maximum term of imprisonment fixed by the District of Columbia Act, it has been found in practice that it often becomes necessary to begin proceedings *de novo* at the end of the first year. It was therefore thought best to increase the time to two years.

7. As stated above in Note 4, confinement at hard labor is never imposed in some States where the offense is only a misdemeanor. In other States the penalty "at hard labor" is not imposed except where the imprisonment is in the Penitentiary, or a Reformatory, or House of Correction. It rarely obtains where the imprisonment is in the County Jail; partly for the practical reason that in them there are neither appliances nor space nor opportunities for what is known as "convict labor." But as the penalty provided in this Section reads, "with or without hard labor," the question will rest in the discretion of the court

according to the penal provisions of the laws of each State. In some States "convict labor" has been either abolished or limited as the result of the influence of the Labor Unions.

In Maryland, at the Baltimore Penitentiary, "Contract Labor" is permitted by law. Recent investigations show that the labor of the prisoners enures not only to the benefit of the State, but of the prisoners themselves, who by working overtime earn for themselves or for the support of their families fully as much as goes to the State. In the District of Columbia, which is under control of Congress, and therefore in a sense, *sui generis*, prisoners at hard labor may be compelled to work upon the streets of the City of Washington at a fixed wage per diem, and of their wages, under the Act of Congress of 1906, an amount equal to fifty cents a day is paid over to, or for the benefit of, the prisoner's family. It would be impracticable, perhaps, to insert a clause in this Bill providing for the employment of offenders under this Act upon the streets or highways of the several municipalities or counties of each State under the term "at hard labor." Nevertheless, it is evident that if such provision could be adopted by each State, it would relieve the public at large from the expense of supporting the families of such offenders. Such a provision is well worth the consideration of every State.

SECTION II. Proceedings under this Act may be instituted upon complaint made under oath or affirmation by the wife or child or children, or by any other person, against any person guilty of either of the above named offenses. (1)

1. The initial proceedings in all desertion cases should be instituted before the court of lowest jurisdiction. In some States this is a Justice of the Peace, in others a Municipal Court, in others a County or District Court. The point to be borne in mind in this regard is that the remedy be as simple and speedy as possible.

SECTION III. At any time before the trial, upon petition of the complainant and upon notice to the defendant, the Court, or a Judge thereof in vacation, may enter such temporary order as may seem just, providing for support of the deserted wife or children, or both, *pendente lite*, and may punish for violation of such order as for contempt. (1)

1. This Section is in form the same as an amendment to Section IV of the printed Bill offered at Detroit by Mr. Noel, of Indiana. The purpose of the Section is plain; namely to provide for support for the family pending the beginning of the proceedings and the final order of the court. Where the proceedings are begun before a court of record,

the application, of course, can be made at any time. Where the proceedings are begun before a Justice of the Peace or other Magistrate, who must make his return to the court, it follows that the application under this Section cannot be made until such return has been filed with the Clerk of the Court. But that is a minor matter of procedure.

SECTION IV. Before the trial, with the consent of the defendant, or at the trial, on entry of a plea of guilty, or after conviction, instead of imposing the penalty hereinbefore provided, or in addition thereto, the court in its discretion, having regard to the circumstances, and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by the court from time to time, as circumstances may require, directing the defendant to pay a certain sum periodically, for a term not exceeding two years, (1) to the wife or to the guardian, curator or custodian of the said minor child or children, or to an organization or individual approved by the court as trustee; (2) and shall also have the power to release the defendant from custody on probation for the period so fixed, upon his or her entering into a recognizance, with or without surety, in such sum as the court or a Judge thereof in vacation, may order and approve. The condition of the recognizance shall be such that if the defendant shall make his or her personal appearance in court whenever ordered to do so, and shall further comply with the terms of such order of support, or of any subsequent modification thereof, then such recognizance shall be void, otherwise of full force and effect. (3)

1. The term of one year in Section IV of the Bill as printed was changed by the committee at Washington to read "not exceeding two years," for reasons stated in Note 6 to Section 1.

2. Section I makes the offense of Desertion a crime, and prescribes the penalty; Section III secures support for the family by an order *pendente lite*; but as the main purpose of a Desertion Act is the protection and maintenance of the family, it is apparent that additional remedies are required. This Section endeavors to meet that need: *a.* By an order of support entered before trial with the consent of the defendant; *b.* By an order of support made if a plea of guilty be entered to the indictment; *c.* By an order of support made after conviction. All of these orders to be in lieu of, or in addition to the penalties prescribed by Section I.

3. This clause providing for release on probation is taken from the District of Columbia Act. The Desertion Acts of many States contain a similar provision which is found in practice to be very effective. The penalty of imprisonment, especially at hard labor, soon brings the wife deserter to a willingness to give surety for the support of his family, and a means is thus secured for enforcing the order of support authorized by the first paragraph of this Section.

SECTION V. If the court be satisfied by information and due proof under oath, that at any time during said period of two years the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original charge, or sentence him or her under the original conviction, or enforce the suspended sentence, as the case may be. In case of forfeiture of recognizance, and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid, in whole or in part, to the wife, or to the guardian, curator, custodian or trustee of the said minor child or children. (1)

1. This provision is taken from the District of Columbia Act which follows the Acts of Illinois, Louisiana and Virginia.

SECTION VI. No other or greater evidence shall be required to prove the marriage of such husband and wife, or that the defendant is the father or mother of such child or children, than is or shall be required to prove such facts in a civil action. (1) In no prosecution under this act shall any existing statute or rule (2) of law prohibiting the disclosure of confidential communications between husband and wife apply, (3) and both husband and wife shall be competent (4) witnesses to testify against each other (5) to any and all relevant matters, including the fact of such marriage and the parentage of such child or children; (6) Provided that neither shall be compelled to give evidence incriminating himself or herself. Proof of the desertion of such wife, child or children in destitute or necessitous circumstances or of neglect or refusal to provide for the support and maintenance of such wife, child or children shall be *prima facie* evidence that such desertion, neglect or refusal is wilful. (7)

1. While under the Constitution of the United States, and probably of each State, no defendant can be compelled to incriminate himself, yet both in criminal and civil actions the issue of legitimacy or illegitimacy of children is a matter of frequent occurrence. This clause relating to a proceeding where a wife or husband, necessarily by the fault of the other, is forced to protect life or reputation, as a stranger would, permits the character of the proof to be such as would be required in a civil action — *i.e.*, preponderance of proof may control.

2. Section VI *as formerly printed* refers simply to “existing provisions of law.” But as “existing provisions of law might be construed as including only statutory provisions and as not being broad enough to include judicial utterances upon *The Rule of Law* relating to confidential communications, the phrase is therefore changed to read “Existing Statute or Rule of Law.”

3. This clause relating to disclosure of confidential communications between husband and wife opens a field for wide discussion. Under the Common Law the fiction of unity of husband and wife, and the farther fiction forbidding parties in interest to testify either for or against each other long obtained. The latter fiction has been abolished in most States. The former fiction has been abolished in many States, both in criminal and civil proceedings where —

(a) The consent of the other party is given at the trial; or (b) Where the marital relation has been so violated by the act of either as to abolish the reason for the rule. The Constitution of the United States provides that “no person can be compelled in any criminal case to be a witness against himself.” The Constitutions of many States provide that no person can be compelled in any criminal case “to give evidence against himself.” But these constitutional provisions do not apply to or limit the power of the State Legislature to require the disclosure of confidential communications between husband and wife. The forbidding of such disclosures was the policy of the law; but if the confidential marital relation has been violated by the act of either party, the reason of the rule ceases. In such case the communications do not arise from the confidence of the parties in each other, but from the want thereof; and therefore even without statutory authority either party may testify to the same. *Seitz vs. Seitz*, 170 Pa., page 171.

4. An exception to the rule excluding testimony of husband and wife against each other is to be found in cases of personal outrage by one on the other.

30 Amer. and Eng. Cyc., page 954.

This exception being based on public policy it follows that the injured spouse is not only competent but is compellable to testify if unwilling.

30 Amer. and Eng. Cyc., page 955; *Johnson vs. State*, 94 Ala., page 53; *Turner vs. State*, 60 Miss., page 351; S. C., 45 Amer. Rep., page 412; *Bramlette vs. State*, 21 Tex. App., page 611; see also

“Cyc.,” pp. 961-2, (2) — (b); 46 Amer. Rep., page 241. In Pennsylvania, by the Act of May 23, 1887, P. L. 158, Section 2, it is provided that in criminal cases neither husband nor wife shall be competent to testify against each other “except in proceeding for desertion and maintenance, and in any criminal proceeding against either for bodily injury or violence attempted, done or threatened upon the other; and also that neither shall “be competent or permitted to testify to confidential communications made by one to the other, unless this privilege be waived upon the trial.” A similar provision will be found in the statutes of many States. It is therefore apparent that it lies in the power of the Legislatures of each State to abrogate the Common Law rule forbidding husband or wife to testify against each other (whether in criminal or civil proceedings), and forbidding the disclosure of confidential communications. No constitutional prohibition is violated thereby.

5. In Section VI of the Detroit report the clause read, “testify to any and all relevant matters.” At the meeting at Detroit in August, 1909, the words “against each other” were inserted after the word “testify.” The reasons for such amendment have been given in Notes (3) and (4) *supra*.

6. Since, as explained in Note 1, the first paragraph of this Section limits the proof of the parentage of children to the character of proof required in civil actions, it would seem that this last clause relating to “the fact of marriage and the parentage of any child or children,” cannot be construed to compel either parent to incriminate himself or herself, but to avoid all doubt upon this point it has been thought wiser to add the proviso.

7. Section VI of the Detroit Bill, included only the words “desertion” and “neglect,” whereas Section I included the words “desert, neglect or refuse.” The words “desert, neglect or refuse,” are well established and generally adopted in statutes of this character; therefore, the same terminology as obtains in Section I has been adopted.

SECTION VII. It shall be the duty of the sheriff, warden, or other official in charge of the County Jail, or of the custodian (1) of the Reformatory, Workhouse, or House of Correction, in which any person is confined on account of a sentence at hard labor under this Act, to pay over to the wife, or to the guardian, curator or custodian of his or her minor child or children, or to an organization or individual approved by the court as trustee, at the end of each week, for the support of such wife, child or children, a sum equal to _____ for each day's hard labor performed by said person so confined. (2)

1. The term "custodian" is generic. In each State the proper title of the official in charge of the Reformatory, Workhouse, or House of Correction should, perhaps, be substituted.

2. This Section is copied from Section III of the District of Columbia Act with one or two verbal changes.

In order to carry out the provisions of this Section there must, of course, be additional legislation in each State specifically providing for "contract" or "convict" labor. And a fund provided, from which to draw for the purposes covered by this Section. As stated before, the District of Columbia is *sui generis* in this regard. Congress makes an annual appropriation to this end. In the District of Columbia, desertion offenders are put at "hard labor" upon the streets under "contract labor." The method there in vogue of treating desertion offenders is worthy of study and imitation by every State.

SECTION VIII. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States which enact it.

1. This Section was not adopted by the Conference at the Chattanooga meeting, but as the title was amended by adding the clause "And to promote uniformity between the States in reference thereto," it of course becomes necessary to insert the language of this Section in this Act as in all other uniform Acts.

SECTION IX. Repealing clause.

SECTION X. This Act shall take effect the _____ day of _____, Anno Domini 19 _____

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THIRD ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1911.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
18 POST OFFICE SQUARE.
1912.

APPROVED BY
THE STATE BOARD OF PUBLICATION.

The Commonwealth of Massachusetts.

THIRD ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

*To His Excellency the Governor and the Honorable Council of the
Commonwealth of Massachusetts.*

The undersigned commissioners, Samuel Ross, Samuel Williston and Hollis R. Bailey appointed by the Governor under the provisions of chapter 416 of the Acts of 1909, pursuant to the provisions of said act, submit the following annual report.

In January, 1911, the Board prepared and caused to be introduced two petitions with accompanying bills as follows:—

1. A petition asking for the enactment of the uniform desertion act.

2. A petition asking for the enactment of the uniform act relating to wills executed without the State.

Both these petitions were finally referred to the Judiciary Committee. Members of the commission attended hearings and furnished information.

The uniform desertion act was strongly supported by a number of organizations engaged in philanthropic work.

Both acts were recommended by the Judiciary Committee and both were passed.

The uniform desertion act so enacted is chapter 456 of the Acts of 1911.

The uniform act relating to wills executed without the State is chapter 246 of the Acts of 1911.

UNIFORM WORKMEN'S COMPENSATION ACT.

The special committee appointed in 1910 by the Conference of Commissioners on Uniform State Laws to consider and report as to a uniform workmen's compensation act did a large amount of work during the year, and at the annual meeting of the conference in Boston in August, 1911, submitted a tentative draft of a uniform workmen's compensation act. The subject was discussed on two different days, and the committee was continued with directions to pursue its work and make a final report in August, 1912. The special committee above named consists of Charles Thaddeus Terry of New York, John R. Hardin of New Jersey, George Whitelock of Maryland, John H. Wigmore of Illinois, Aldis B. Browne of District of Columbia, Peter W. Meldrim of Georgia and Hollis R. Bailey of Massachusetts, who is chairman.

UNIFORM CHILD LABOR LAW.

The special committee appointed by the Conference of Commissioners in August, 1909, to draft a uniform child labor law did considerable work during the year, and made a final report to the conference in August, 1911, submitting a final draft of a uniform child labor law.

This draft was discussed on different days and was perfected and recommended for adoption in all the States.

It may be noted here that this uniform law in many respects follows the law as it now exists in Massachusetts.

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

The conference held its twenty-first annual meeting at Boston, Mass., in August, 1911.

The following officers were elected for 1911-12:—

President, WALTER GEORGE SMITH, Land Title Building, Philadelphia, Pa.

Vice-President, A. T. STOVALL, Okolona, Miss.

Secretary, CHARLES THADDEUS TERRY, 100 Broadway, New York, N. Y.

Treasurer, TALCOTT H. RUSSELL, 42 Church Street, New Haven, Conn.

Assistant Secretary, M. GRUNTHAL, 100 Broadway, New York, N. Y.

Executive Committee, William H. Staake, Philadelphia, Pa., John R. Hardin, Newark, N. J., James R. Caton, Alexandria, Va., Cyrenius P. Black, Lansing, Mich., Nathan William Mac Chesney, Chicago, Ill., and Amasa M. Eaton, Providence, R. I.

The proceedings of the conference appear in a printed report, a copy of which is in our State Library. They will also appear in the annual report of the American Bar Association soon to be published.

Prof. Samuel Williston of this Board is a member of the committee on commercial law.

Two additional uniform laws were approved and recommended for adoption in the several States. One of these was the uniform child labor law above referred to. The other was a uniform act relating to marriage and marriage licenses.

We have not annexed to this report drafts of the uniform acts above mentioned because we propose to present petitions to the Legislature which is about to convene and to ask to have each of these uniform laws, viz., the child labor law and the marriage and marriage license law, enacted in Massachusetts, and it seems unnecessary to have the same matter printed twice. Printed copies of the two proposed uniform acts may be found in the State Library.

EXPENDITURES OF THE BOARD.

I. Prior to Year 1911.

| | |
|--|------------|
| Amount of appropriation in 1909, | \$2,500 00 |
| Amounts approved to come out of same:— | |
| Dec. 28, 1909. For H. R. Bailey, | 86 00 |
| | <hr/> |
| <i>Amount carried forward</i> , | \$2,414 00 |

| | | | | | | |
|--|---|---|---|---|---|------------------|
| <i>Amount brought forward,</i> | . | . | . | . | . | \$2,414 00 |
| Dec. 28, 1909. For Samuel Ross, | . | . | . | . | . | 6 00 |
| | | | | | | <hr/> \$2,408 00 |
| May 7, 1910. Wright & Potter, | . | . | . | . | . | 22 59 |
| | | | | | | <hr/> \$2,385 41 |
| June 9, 1910. Conference of Commissioners, | . | . | . | . | . | 100 00 |
| | | | | | | <hr/> \$2,285 41 |
| June 9, 1910. H. R. Bailey, | . | . | . | . | . | 147 07 |
| | | | | | | <hr/> \$2,138 34 |
| June 9, 1910. Samuel Ross, | . | . | . | . | . | 46 65 |
| | | | | | | <hr/> \$2,091 69 |
| June 9, 1910. Samuel Williston, | . | . | . | . | . | 12 00 |
| | | | | | | <hr/> \$2,079 69 |
| Sept. 9, 1910. Samuel Williston, | . | . | . | . | . | 144 05 |
| | | | | | | <hr/> \$1,935 64 |
| Sept. 9, 1910. H. R. Bailey, | . | . | . | . | . | 365 23 |
| | | | | | | <hr/> \$1,570 41 |
| Dec. 21, 1910. H. R. Bailey, | . | . | . | . | . | 115 65 |
| | | | | | | <hr/> \$1,454 76 |
| Balance of appropriation, | . | . | . | . | . | |

II. During Year 1911.

| | | | | | | |
|--|---|---|---|---|---|------------------|
| Apr. 5, 1911. H. R. Bailey for expenses from Dec. 14, 1910, to Mar. 6, 1911, for stationery, postage, telegrams, express, typewriting, traveling expenses to New York, Dec. 21-24, 1910, and traveling expenses to New York, Mar. 2-6, 1911, | . | . | . | . | . | 79 21 |
| | | | | | | <hr/> \$1,375 55 |
| Apr. 5, 1911. Conference of Commissioners per act of Legislature, | . | . | . | . | . | 100 00 |
| | | | | | | <hr/> \$1,275 55 |
| Apr. 5, 1911. Samuel Williston, traveling expenses, | . | . | . | . | . | 51 40 |
| | | | | | | <hr/> \$1,224 15 |
| <i>Amount carried forward,</i> | . | . | . | . | . | |

| | |
|--|------------|
| <i>Amount brought forward,</i> | \$1,224 15 |
| May, 1911. Wright & Potter, printing annual report, . | 73 36 |
| | <hr/> |
| | \$1,150 79 |
| Nov. 6, 1911. H. R. Bailey for expenses from April 26 to Oct. 21, 1911, for stamps, express, typewriting, stationery, printing, traveling expenses to New York, April 28-30 and July 7-18, and to Providence, July 18, | 106 67 |
| | <hr/> |
| | \$1,044 12 |
| Nov. 6, 1911. National Child Labor Committee print- ing Uniform Child Labor Law, | 32 50 |
| | <hr/> |
| | \$1,011 62 |
| Nov. 6, 1911. A. C. Getchell & Son printing Uniform Workmen's Compensation Act, | 39 00 |
| | <hr/> |
| | \$972 62 |
| Dec. 23. Samuel Ross, traveling expenses, | 10 00 |
| | <hr/> |
| | \$962 62 |
| Dec. 23. Samuel Williston, traveling expenses to New York, November 4-7, | 37 90 |
| | <hr/> |
| Balance of appropriation, | \$924 72 |
| Total of expenses for the year, | \$530 04 |

HOLLIS R. BAILEY,
SAMUEL ROSS,
SAMUEL WILLISTON,
Commissioners.

FOURTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1912.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
18 POST OFFICE SQUARE.
1913.

APPROVED BY
THE STATE BOARD OF PUBLICATION

The Commonwealth of Massachusetts.

FOURTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

*To His Excellency the Governor and the Honorable Council of the
Commonwealth of Massachusetts.*

The undersigned commissioners, Samuel Ross, Samuel Williston and Hollis R. Bailey, appointed by the Governor under the provisions of chapter 416 of the Acts of 1909, acting in pursuance of the provisions of said act, submit the following annual report:—

In January, 1912, the Board prepared and caused to be introduced two petitions to the Legislature with accompanying bills as follows:—

1. A petition asking for the enactment of the uniform child labor law.
2. A petition asking for the enactment of the uniform marriage and marriage license law.

UNIFORM CHILD LABOR LAW.

The first of these petitions, viz., that for a uniform child labor law, was referred to the committee on labor.

Two hearings were had before the committee on labor. Mr. Samuel Ross was the chairman of said committee. Your Board

introduced considerable evidence in support of the bill, and was supported by the Massachusetts Child Labor Committee.

Certain parts of the bill were opposed by counsel representing certain manufacturers at Fall River. These parts were thereupon eliminated, and the opposition of the manufacturers was apparently withdrawn.

Certain other parts of the bill were objected to by certain members of the association, composed of the superintendents of schools. These parts were amended and it was hoped that the opposition of the school superintendents might be withdrawn.

Some objection was also made by some members of the State police.

The changes made in the bill by the amendments aforesaid were of such importance that your Board deemed it necessary to modify the title of the bill by omitting the word "uniform."

The committee on labor reported adversely. Your Board, feeling aggrieved by this report, requested a member of the Senate to move as a substitute for the report of the committee the adoption of the bill as finally amended by your Board. This motion prevailed and the bill, as amended, reached a second reading in the Senate. It was then further amended and referred to the next General Court.

The experience of this last year as to the child labor law is instructive and helpful in so far as it indicates the sources from which opposition to any improved child labor law may be expected.

UNIFORM MARRIAGE AND MARRIAGE LICENSE LAW.

One hearing was had before the Judiciary Committee. The only serious objection came from some of the city clerks and the registrar in the city of Boston. Amendments not impairing the integrity of the bill were made at their suggestion, and your Board believed that the opposition had been withdrawn. The Judiciary Committee reported favorably, but later the bill was divided, and the portion favored by the city clerks was adopted and the remainder was referred to the next General Court.

It seems important to note here that the existing law of

Massachusetts on the subject of marriages and marriage licenses is not very different from that contained in the proposed uniform law. Recently serious objection has been made to the existing law because it can be evaded by going to a neighboring State where the law is looser than it is in Massachusetts.

Your Board believes that the true way to meet the criticism now being made of the Massachusetts law is not by repealing it but by adopting the uniform law on marriage and marriage licenses, and then urging the adoption in the neighboring States of the same uniform law. There is no subject we think upon which uniformity of legislation is more desirable.

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

The conference held its twenty-second annual meeting at Milwaukee, Wis., in August, 1912. Two of your Board, viz. Messrs. Williston and Bailey, attended said conference.

The following officers were elected for 1912-13: —

President, CHARLES THADDEUS TERRY, 100 Broadway, New York.

Vice-President, JOHN HINKLEY, Baltimore, Md.

Secretary, CLARENCE N. WOOLLEY, 308 Main Street, Pawtucket, R. I.

Treasurer, TALCOTT H. RUSSELL, 42 Church Street, New Haven, Conn.

Executive Committee, William H. Staake, City Hall, Philadelphia, Pa., Walter George Smith, Philadelphia, Pa., James R. Caton, Alexandria, Va., Nathan William MacChesney, Chicago, Ill., Seneca N. Taylor, St. Louis, Mo., and C. A. Severance, St. Paul, Minn.

The time of the conference was largely devoted to considering a uniform workmen's compensation act, and such an act was tentatively approved. The special committee appointed to prepare a uniform workmen's compensation act was continued. Hollis R. Bailey of your Board is chairman of this special committee. A uniform partnership act and a uniform corporation act were also considered. A short uniform law relating to marriages entered into out of the State with intent to evade the law of the State of the domicile was considered and approved, and recommended for adoption.

Prof. Samuel Williston of your Board is a member of the committee on commercial law, which is now engaged in framing the uniform partnership act.

The proceedings of the conference appear in a printed report, a copy of which is in our State Library. This printed report of the conference also appears as a part of the annual report of the American Bar Association, lately published.

LEGISLATION RECOMMENDED.

Your Board propose to present a petition to the Legislature asking again for the adoption of the uniform marriage and marriage license act. If this act is adopted in Massachusetts, the commissioners on uniform laws will be much aided in their efforts to have said act adopted in the other New England States.

Your Board will also ask the Legislature to adopt the uniform act on the subject of marriages in other States or countries in evasion or violation of the laws of the State of domicile.

We have not annexed to this report drafts of the uniform acts, above mentioned, because we shall present petitions with accompanying bills, and it seems desirable to save the expense of having the same matter printed twice.

Your Board will not this year re-introduce the child labor law. The Massachusetts Child Labor Committee will probably introduce one or more bills framed largely according to the provisions of the uniform law, and your Board will content itself in doing what it can properly to further the passage of those bills.

It will appear by the table of expenditures, made a part of this report, that the appropriation of \$2,500, made in 1909, will not be sufficient to meet the necessary expenses of the Board for the remaining two years. This result is due not to any unwise or extravagant expenditure on the part of the Board, but to the fact that the Board has contributed the sum of \$100 per year out of its appropriation toward the expenses of the Conference of Commissioners, and because the expense of printing has been larger than was expected.

Your Board will ask the Legislature for an additional appropriation of \$1,000.

EXPENDITURES OF THE BOARD.

Prior to Year 1912.

| | |
|--|------------|
| Amount of appropriation in 1909, | \$2,500 00 |
| Amount expended prior to 1912 (see third annual report), | 1,575 28 |
| | <hr/> |
| Balance, | \$924 72 |

During Year 1912.

| | |
|--|----------|
| Jan. 31, 1912. Bill for printing annual report, | 14 32 |
| | <hr/> |
| | \$910 40 |
| Mar. 2, 1912. Hollis R. Bailey, traveling and other expenses, | 59 38 |
| | <hr/> |
| | \$851 02 |
| April, 1912. Talcott H. Russell, Treasurer, Conference Commissioners on uniform state laws, | 100 00 |
| | <hr/> |
| | \$751 02 |
| Oct., 1912. Samuel Williston, three bills, traveling expenses, \$4.22, \$34.50 and \$167.26, | 205 98 |
| | <hr/> |
| | \$545 04 |
| Oct., 1912. Hollis R. Bailey, two bills, for traveling and other expenses, \$180.35 and \$34.58, | 214 93 |
| | <hr/> |
| | \$330 11 |
| Oct., 1912. Samuel Ross, | 3 50 |
| | <hr/> |
| Balance, | \$326 61 |
| Total expenses for 1912, | \$598 11 |

HOLLIS R. BAILEY,
 SAMUEL ROSS,
 SAMUEL WILLISTON,
Commissioners.

FIFTH ANNUAL REPORT

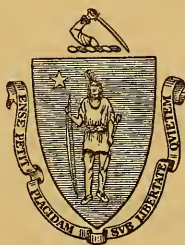
OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1913.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1914.

APPROVED BY
THE STATE BOARD OF PUBLICATION.

The Commonwealth of Massachusetts.

FIFTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

*To His Excellency the Governor and the Honorable Council of the
Commonwealth of Massachusetts.*

The undersigned commissioners, Samuel Ross, Samuel Williston and Hollis R. Bailey, appointed by the Governor under the provisions of chapter 416 of the Acts of 1909, acting in pursuance of the provisions of said act, submit the following annual report: —

UNIFORM CHILD LABOR LAW.

The substance of the uniform child labor law was enacted in chapters 779 and 831 of the Acts of 1913.

The commissioners introduced a bill containing this uniform law in 1912 and urged its adoption, but owing to opposition on the part of some of the manufacturers and on the part of the Association of School Superintendents and by some members of the State police, the bill was defeated. In 1913 a different plan seemed advisable.

Those sections of the law which relate to working certificates were incorporated in the bill of the superintendents of schools. Those sections of it which prohibit child labor under a certain age and in certain hazardous occupations

were petitioned for by the Massachusetts Child Labor Committee. Both bills were introduced with the co-operation and support of this Board. In this way, after careful consideration, the enactment of the entire law was secured.

It is too early yet for the benefits of this humane legislation to be estimated completely. Already, as we are informed, several thousand children under sixteen are receiving the benefits of the eight-hour day, the most radical reform accomplished by the legislation. At first the impression was rather widespread that the law excluded all under sixteen from employment. Now, however, that it has become understood that the law only reduces the hours from ten to eight the adjustment is coming rapidly. The children are being employed on eight-hour schedules, as in the thirteen other States where this provision is in effect. The most recent information obtainable indicates that the reduction in child labor by shortening their hours, by excluding children from dangerous and harmful occupations, and by regulating street trades will be of permanent value in conserving the strength and increasing the efficiency of the young people of Massachusetts.

We wish to call attention to the fact that each provision of the uniform law is taken from the statute books of States where it has been thoroughly tested, and that the uniform standards enacted have the sanction of thousands of experienced and impartial practical people of all classes. The presumption is very strongly against any proposed amendments unless they are backed by a wide, practical experience and extensive investigation. We recommend that no amendments be made for some years unless the evidence is conclusive that they are necessary.

UNIFORM MARRIAGE AND MARRIAGE LICENSE LAW.

Your Board in 1913 again filed a petition, asking for the enactment of the uniform marriage and marriage license act. The bill was again opposed by some of the city clerks and was defeated.

In one aspect of the matter the passage of the uniform law is not of vital importance, as the law of Massachusetts

at the present time does not very greatly differ from the uniform law; but in another aspect it is of considerable importance. At the present time the Massachusetts law can be evaded by parties going out of the State to get married. If the uniform law is adopted in Massachusetts it will help the commissioners in other States in getting the same law enacted.

UNIFORM ACT ON MARRIAGES OUTSIDE THE STATE IN EVASION OF THE LAW OF THE DOMICILE.

Your Board introduced a bill embodying the uniform law on marriages outside the State in evasion of the law of the domicile. This was passed without opposition. It was also enacted in Vermont.

UNIFORM DESERTION ACT.

Your Board is pleased to report that the uniform desertion act which was adopted in Massachusetts in 1910 (Acts of 1911, chapter 456) is, according to all the information received by your Board, working well and is productive of much good. It has also been enacted in Kansas, North Dakota, Delaware, Wisconsin and Texas. A similar law relating to the fathers of illegitimate children was enacted in 1913 (Acts of 1913, chapter 563). If this works well in Massachusetts, similar laws are likely to be adopted in the other States.

CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

The conference held its twenty-third annual meeting at Montreal in Canada in August, 1913. Two of your Board, viz., Messrs. Williston and Bailey, were in attendance and took an active part in the proceedings.

Charles Thaddeus Terry, Esq., 100 Broadway, New York, was re-elected president, and Clarence N. Woolley, 308 Main Street, Pawtucket, R. I., was re-elected secretary.

The uniform partnership act was discussed further, and certain amendments to the uniform negotiable instrument act were considered. The uniform workmen's compensation

act was the subject of further debate. No acts were finally approved or recommended for adoption. The proceedings of the conference will appear in the annual report of the American Bar Association.

ADDITIONAL APPROPRIATION.

Your Board introduced a bill asking for an additional appropriation to cover its expenses and contribution to the expenses of the conference.

By Resolves of 1913, chapter 66, a further appropriation of \$500 was granted.

TERM OF OFFICE.

The term of office of all the members of the Board will expire in June, 1914, as chapter 416 of the Acts of 1909 only provided for a five-year tenure of office.

As the work of the commissioners is each year becoming more and more important, and the influence of the Conference of Commissioners is becoming greater, it is hoped that the Legislature of 1914 will pass a new act continuing the Board for another period of five years. As the Board is now authorized (Acts of 1910, chapter 73) to make an annual contribution of \$100 to the expenses of the Conference of Commissioners, the appropriation for the coming five years should be \$3,000 instead of \$2,500, the amount appropriated in 1909.

LEGISLATION RECOMMENDED.

Your Board proposes to again present a bill embodying the uniform marriage and marriage license act.

Your Board will also introduce a bill continuing the Board for another period of five years.

We have not annexed to this report drafts of these proposed acts because we shall present petitions with accompanying bills, thereby saving the expense of printing the same matter twice.

EXPENDITURES OF THE BOARD.

Prior to Year 1913.

| | | |
|---|------------|----------|
| Amount of appropriation in 1909, | \$2,500 00 | |
| Amount expended prior to 1913 (see fourth annual report), | 2,173 39 | |
| | <hr/> | |
| Balance, | \$326 61 | |
| Appropriation, 1913, | 500 00 | |
| | <hr/> | |
| Total, | | \$826 61 |

During Year 1913.

| | | |
|---|---------|----------|
| February, 1913, bill for printing annual report, | \$13 89 | |
| June, 1913, Talcott H. Russell, treasurer, Conference of Commissioners on uniform State laws, | 100 00 | |
| July 5, 1913, Hollis R. Bailey for traveling and other expenses, | 37 90 | |
| July 5, 1913, Samuel Williston for traveling expenses, | 21 00 | |
| December, 1913, Samuel Williston for traveling expenses, | 76 86 | |
| December, 1913, Hollis R. Bailey for traveling and other expenses, | 80 05 | |
| December, 1913, Samuel Ross, traveling expenses, | 3 50 | |
| | <hr/> | |
| Total expenses for 1913, | | 333 20 |
| | <hr/> | |
| Balance on hand, | | \$493 41 |

HOLLIS R. BAILEY.
 SAMUEL WILLISTON.
 SAMUEL ROSS.

SIXTH ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1914.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1915.

APPROVED BY
THE STATE BOARD OF PUBLICATION.

The Commonwealth of Massachusetts.

SIXTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The undersigned commissioners, Hollis R. Bailey, Samuel Williston and Joseph F. O'Connell, appointed by the Governor under the provisions of chapter 381 of the Acts of 1914, acting in pursuance of the provisions of said law, submit the following annual report: —

UNIFORM LAWS.

A brief history of the movement for uniformity of legislation by the different States of the United States is contained in the first annual report of the Board in December, 1909, printed as Public Document No. 86. The work began as early as 1882 in the American Bar Association. The first commissioners were appointed in Massachusetts in 1891. The following is a list of the acts providing for the appointment of such commissioners and for carrying on the work: —

Acts of 1891, chapter 405.
Acts of 1893, chapter 311.
Acts of 1897, chapter 233.
Acts of 1902, chapter 494.
Acts of 1902, chapter 501.
Acts of 1904, chapter 415.

Acts of 1905, chapter 172.
Acts of 1909, chapter 416.
Acts of 1910, chapter 73.
Acts of 1913, chapter 66.
Acts of 1914, chapter 381.

The nature of the work is indicated by the title of the Board and is the promotion of uniformity of legislation in the United States on matters where uniformity is desirable.

All the States now have commissioners, and an annual conference is held which sits for about one week.

The following is a list of the uniform laws which have been approved by the conference and recommended for adoption in the different States, with the dates when the same were approved: —

| | |
|-----------------|-------------------------------------|
| 1896, | *Uniform negotiable instrument act. |
| 1900, | Uniform divorce act. |
| 1901, | Uniform insurance act. |
| 1901, | Uniform migratory divorce act. |
| 1901, | Uniform divorce procedure act. |
| 1907, | *Uniform sales act. |
| 1907, | *Uniform warehouse receipts act. |
| 1909, | *Uniform stock transfer act. |
| 1909, | *Uniform bills of lading act. |
| 1910, | *Uniform foreign wills act. |
| 1910, | *Uniform desertion act. |
| 1911, | *Uniform child labor act. |
| 1911, | Uniform marriage act. |
| 1912, | *Uniform marriage evasion act. |
| 1914, | Uniform partnership act. |
| 1914, | Uniform cold storage act. |
| 1914, | Uniform acknowledgment act. |
| 1914, | Uniform workmen's compensation act. |

Of the foregoing, those which are starred have been enacted in Massachusetts. The uniform marriage act is substantially the same as the existing law in Massachusetts.

PRESENT BOARD.

The term of office of the members appointed under Acts of 1909, chapter 416, having expired in July, 1914, and a new act (chapter 381 of the Acts of 1914) having been passed providing for the appointment of a new Board, the Governor reappointed Samuel Williston and Hollis R. Bailey and added as a new member Joseph F. O'Connell, all to

serve for a term of not exceeding five years. The expenses of the Board are provided for, and a contribution of \$100 a year toward the expense of the conference is authorized.

CONFERENCE OF 1914.

The commissioners held their annual conference in Washington, D. C., in October, 1914.

The uniform partnership act, drafted by the committee on commercial law, was further considered and revised and was approved.

A considerable part of the time of the conference was given to the further consideration of the uniform corporation act, and considerable progress was made toward getting it into final shape.

The uniform workmen's compensation act, drafted by a special committee of which your commissioner, Hollis R. Bailey, was the chairman, was further considered and revised and was approved.

A uniform cold-storage act, and an act to make uniform the law of acknowledgments to deeds or other instruments taken outside the United States, were also perfected and approved.

Copies of all these acts may be found in our State Library.

Your commissioners received a suggestion from the office of the Attorney-General of this Commonwealth, asking them to take up with the commissioners from the various States the matter of securing a uniform law in reference to extradition of criminals, because of the annoyance which has been caused in this Commonwealth by reason of the lack of uniformity in laws pertaining to extradition. On motion of Mr. O'Connell, one of your commissioners, the conference voted unanimously to take this subject up and refer it to a proper committee, which was done, and the matter is now being considered by a special committee. Your commissioners hope at the next session such a law will be reported on that can be passed by all the States, thereby avoiding the scandal and delays which have resulted heretofore owing to the complexity and want of uniformity in

this very important feature of laws affecting the comity of States.

The following officers were elected by the conference:—

President, CHARLES THADDEUS TERRY, 100 Broadway, New York.

Vice-President, W. M. CROOK, Beaumont, Tex.

Secretary, GEORGE B. YOUNG, Newport, Vt.

Treasurer, THOMAS A. JENCKES, Providence, R. I.

Chairman of Executive Committee, EUGENE C. MASSIE, Richmond, Va.

UNIFORM CHILD LABOR LAW.

The demand for uniformity in laws relating to child labor has become so great that the Congress of the United States has been asked to enact a law which shall apply to children engaged in the production of goods which are to become articles of interstate or foreign commerce.

The bill is known as the Palmer-Owen child labor bill, and has the support of the national child labor committee. If enacted it will apply chiefly to mines and manufacturing establishments, and will leave a large field for the operation of State laws regulating the matter of child labor.

As sixteen States now have the eight-hour day for all children under sixteen years of age, there is good reason to believe that this provision in the Federal bill will meet with approval.

LEGISLATION RECOMMENDED.

Your Board recommends the enactment in 1915 of the uniform partnership act and the uniform act relating to the acknowledgment of deeds or other instruments outside the United States.

The law embodied in these acts is not very different from that now in force in Massachusetts. The adoption of these acts in Massachusetts will assist the commissioners in obtaining their enactment in other States.

Your Board does not think that the uniform workmen's compensation act should be adopted in Massachusetts this coming year, as the time is not ripe for any great change in the existing statutes relating to workmen's compensation. When the time comes for making any considerable change

your Board is of the opinion that the uniform workmen's compensation act will be found to be a natural and proper enlargement of the existing legislation upon this subject.

EXPENDITURES OF THE BOARD.

| | |
|--|----------------|
| March 11, 1914, printing annual report, | \$13 95 |
| May 6, 1914, conference of commissioners, | 100 00 |
| July 15, 1914, Hollis R. Bailey for traveling and other expenses, | 50 99 |
| Nov. 18, 1914, Samuel Williston for traveling and other expenses, | 78 80 |
| Nov. 18, 1914, Joseph F. O'Connell for traveling and other expenses, | 121 44 |
| Nov. 18, 1914, Hollis R. Bailey for traveling and other expenses, | 85 10 |
| Nov. 25, 1914, Hollis R. Bailey for traveling and other expenses, | 24 90 |
| Total expenses for 1914, | <hr/> \$475 18 |

NOTE. — The fifth annual report of the Board contained expenses to Dec. 31, 1913. The present report contains expenses since that date, including those of the Board as constituted under Acts of 1909, chapter 416, and of the Board as it now exists under Acts of 1914, chapter 381.

HOLLIS R. BAILEY.
SAMUEL WILLISTON.
JOSEPH F. O'CONNELL.

SEVENTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1915.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1916.

APPROVED BY
THE STATE BOARD OF PUBLICATION.

The Commonwealth of Massachusetts.

SEVENTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The Board of Commissioners for the Promotion of Uniformity of Legislation in the United States submits the following annual report:—

ORIGIN.

With the growth of commerce and means of transportation in the United States it gradually became evident that the scheme of government embodied in the Constitution of the United States adopted in 1788 involved certain defects in its operation. The powers granted to the Congress of the United States were limited to those matters which were then deemed national, while those which were then deemed local were left to be entirely dealt with by the legislatures of the several States, acting independently of each other.

As the country developed and means of travel and intercourse increased in a way not dreamed of in 1788, it became apparent that there were many matters of supreme importance pertaining to the welfare of the people of all the States which were clearly outside the powers of Congress.

The only practical way of dealing effectively with these matters of general concern was the adoption of some method which should secure uniformity of action by all the States.

UNIFORMITY OF STATE LEGISLATION.

The scheme which was finally adopted to bring about this result was the creation of a body clothed only with advisory powers for the drafting of legislation.

The American Bar Association was largely instrumental in forwarding the movement.

This new body was to consist of commissioners appointed by the several States, acting through their governors or legislatures.

These commissioners were to meet annually, and frame laws governing matters affecting the general welfare of the whole country.

NAME.

The name adopted for this new body was the Conference of Commissioners on Uniform State Laws. This name has recently been enlarged and now reads the National Conference of Commissioners on Uniform State Laws.

SESSIONS.

There have been regular annual sessions of this body since the year 1892. These sessions have always been held during the week prior to the meetings of the American Bar Association and at or near the places where those meetings have been held.

GROWTH.

In 1893, 19 States had appointed commissioners. In 1895, 28 States and 1 territory had joined in the work. In 1915 all the States and territories and insular possessions were represented by commissioners.

NATURE OF THE WORK.

The nature of the work performed by the conference and the commissioners has been twofold.

First. — There has been the work of framing uniform laws. This work has been done in the first instance by committees appointed by the conference. The committees usually have had assistance from experts having special acquaintance with the matters to be dealt with. The laws so framed have then

been discussed, and considered in detail by the conference sometimes for two years and more often for five or six or more years. When fully satisfied, the conference has approved the uniform laws and recommended the same for adoption by the several State legislatures.

Second. — There has been the work of procuring the adoption by the States of the uniform laws thus framed and approved. This work has hitherto been left largely to the commissioners in each State.

UNIFORM LAWS FRAMED.

The following is a list of the uniform laws which have been approved by the conference and recommended for adoption in the different States, with the dates when the same were approved: —

| | |
|-----------------|-------------------------------------|
| 1896, | Uniform negotiable instrument act. |
| 1900, | Uniform divorce act. |
| 1901, | Uniform insurance act. |
| 1901, | Uniform migratory divorce act. |
| 1901, | Uniform divorce procedure act. |
| 1907, | Uniform sales act. |
| 1907, | Uniform warehouse receipts act. |
| 1907, | Uniform divorce act. |
| 1909, | Uniform stock transfer act. |
| 1909, | Uniform bills of lading act. |
| 1910, | Uniform foreign wills act. |
| 1910, | Uniform desertion act. |
| 1911, | Uniform child labor act. |
| 1911, | Uniform marriage act. |
| 1912, | Uniform marriage evasion act. |
| 1914, | Uniform partnership act. |
| 1914, | Uniform cold-storage act. |
| 1914, | Uniform acknowledgment act. |
| 1914, | Uniform workmen's compensation act. |
| 1915, | Uniform pure food and drugs act. |
| 1915, | Uniform flag act. |

UNIFORM LAWS ADOPTED.

As already stated, the matter of securing the adoption of the uniform laws has heretofore been largely left in the hands of the commissioners in the several States. In some of the

States the matter has received little attention, and few or none of the acts have been adopted. In other States the commissioners have been more active, and better results have been attained.

The uniform negotiable instrument act has now been adopted in 46 States and the territory of Alaska and all the insular possessions.

The uniform sales act has been adopted in 12 States and the territory of Alaska.

The uniform warehouse receipts act has been adopted in 32 States, territories and Federal possessions.

We mention these for the purpose of showing that the work of this new legislative body has not been in vain.

The conference has now undertaken the work of rendering assistance to the commissioners in the several States in the matter of procuring the adoption of uniform acts, so that from now on it is probable that more will be accomplished in the way of securing the enactment of the uniform laws.

OBSTACLES.

All of the commissioners serve without compensation. In some of the States they are obliged to pay their own traveling expenses.

This handicap, however, has produced some good results. The commissioners have not been influenced by anything except patriotic motives.

There has been an entire absence of partisanship. The public welfare of the entire country has been the sole end and aim of all concerned.

The greatest obstacle, outside of mere indifference, has been a spirit of local pride or prejudice on the part of members of the legislatures in different States, which has led them to overlook the fact that the different States of the Union are members of one great family, and are vitally affected not only by what is done in their own State but also by what is done in other States of the Union. This obstacle will become less serious, we believe, when the importance of the uniform laws is fully appreciated.

MASSACHUSETTS COMMISSIONERS.

The following is a list of the men who have served and are now serving as commissioners for Massachusetts, with the periods of their service: —

| | | |
|-----------------------|-----------|-----------|
| Edmund H. Bennett, | | 1891-1898 |
| Leonard A. Jones, | | 1891-1902 |
| Frederick J. Stimson, | | 1891-1905 |
| John C. Gray, | | 1898-1900 |
| Louis D. Brandeis, | | 1900-1906 |
| James Barr Ames, | | 1902-1910 |
| George E. McNeil, | | 1905-1906 |
| George W. Weymouth, | | 1905-1906 |
| George E. Gardner, | | 1905-1908 |
| Frederick H. Nash, | | 1906-1908 |
| Samuel Ross, | | 1906-1914 |
| Hollis R. Bailey, | | 1909- |
| Samuel Williston, | | 1910- |
| Joseph F. O'Connell, | | 1914- |

MASSACHUSETTS UNIFORM LAWS.

Massachusetts has led the way in the matter of adopting the uniform laws.

The following is a list of those of the uniform laws which are now in force in Massachusetts, with a reference to the statutes embodying the same: —

| | | |
|------------------------------------|-----------|--|
| Uniform negotiable instrument act, | | R. L., c. 73; Acts 1910, c. 417. |
| Uniform sales act, | | Acts 1908, c. 237. |
| Uniform warehouse receipts act, | | Acts 1907, c. 582; Acts 1909, c. 227. |
| Uniform stock transfer act, | | Acts 1910, c. 171. |
| Uniform bills of lading act, | | Acts 1910, c. 214. |
| Uniform foreign wills act, | | Acts 1911, c. 246. |
| Uniform desertion act, | | Acts 1911, c. 456. |
| Uniform child labor act, | | Acts 1913, cc. 779, 831. |
| Uniform marriage evasion act, | | Acts 1913, c. 360. |

UNIFORM LAWS NOT YET ADOPTED.

The uniform marriage act was introduced two different years into our Legislature by the commissioners, but was opposed by some of the city clerks, and failed of passage.

This uniform law is not very different from the present law of Massachusetts, and the commissioners have not felt it their duty to press its enactment with too great insistence.

The uniform acknowledgment act is substantially the same as the existing law of Massachusetts.

The uniform workmen's compensation act was framed with great care after three years' work on the part of a special committee and of the conference. We believe this law is better than the present workmen's compensation law in Massachusetts, and hope that before many years the uniform law may be adopted.

The uniform cold-storage act will be presented to our 1916 Legislature, and should be adopted.

At present your commissioners are devoting their attention principally to the uniform partnership act. This act is a decided improvement over the existing partnership law of Massachusetts in several important particulars. It has been adopted in Alabama, Pennsylvania and Wisconsin. It ought to be adopted in Massachusetts.

QUALITY OF WORK DONE.

The greater part of what is known as commercial law in Massachusetts for some years has been contained in the uniform laws framed by the Conference of Commissioners on Uniform State Laws and adopted by the Massachusetts Legislature.

These laws have stood the test of experience. No serious criticism of them has been made by either the bench or the bar or the business community.

No lawyer can consider himself well educated who is not acquainted with all the uniform commercial laws.

The two uniform social laws, viz., the uniform child labor law and the uniform desertion act, are recognized as good legislation.

The national conference of commissioners has an established reputation for conservatism, capacity and carefulness, and great weight is now given, and very properly given, to its recommendations.

LEGISLATION RECOMMENDED.

Your Board recommends the enactment in 1916 of the uniform partnership act and the uniform cold-storage act.

EXPENDITURES OF THE BOARD.

| | |
|--|----------|
| Apr. 14, 1915, conference of commissioners, | \$100 00 |
| May 19, 1915, printing annual report, | 15 00 |
| Oct. 6, 1915, Hollis R. Bailey for traveling and other expenses, | 206 90 |
| Oct. 6, 1915, Samuel Williston for traveling and other expenses, | 187 45 |
| Nov. 17, 1915, Joseph F. O'Connell for traveling and other expenses, | 198 34 |
| | <hr/> |
| | \$707 69 |

HOLLIS R. BAILEY.

SAMUEL WILLISTON.

JOSEPH F. O'CONNELL.

EIGHTH ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1916.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1917.

PUBLICATION OF THIS DOCUMENT
APPROVED BY THE
SUPERVISOR OF ADMINISTRATION.

The Commonwealth of Massachusetts.

EIGHTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The Board of Commissioners for the Promotion of Uniformity of Legislation in the United States submits the following annual report: —

REVIEW.

This is the eighth annual report of this Board. In previous reports we have spoken of the growth of the movement for uniformity of legislation, of the acts of Legislature constituting and continuing the Massachusetts Board, and of the membership of the Board in Massachusetts.

We have told of the National Conference of Commissioners on Uniform State Laws and have given some account of the work done by said conference.

We have mentioned the uniform laws which have been framed by the conference and recommended by it for adoption, and have stated which of these laws have been enacted in Massachusetts.

WORK OF THE BOARD DURING 1916.

During the year 1916 the Board has done a good deal of work. Pursuant to their intention announced in their last annual report, they introduced two bills for enactment by the Legislature of Massachusetts, one the uniform partnership act and the other the uniform cold-storage act.

UNIFORM COLD-STORAGE ACT.

Your Board before pressing for the enactment of the uniform cold-storage law felt it to be their duty to confer with the State Department of Health and with others having special information upon the subject of cold storage. The warehouses of the Quincy Market Cold Storage Company were visited. Your committee found that the uniform cold-storage act was largely modeled after the Massachusetts law (St. 1912, c. 652) but with certain minor changes, some of which we considered to be improvements upon the Massachusetts law and some of which we deemed to be doubtful. As the Massachusetts law seemed to be working well, we finally concluded that it would be unwise to press for the early enactment of the uniform law. Any minor changes needed to perfect the Massachusetts cold-storage law we think can readily be made by separate amendatory acts. We understand that one or more such amendments will be recommended by the State Department of Health the coming year.

UNIFORM PARTNERSHIP ACT.

We also introduced a bill embodying the provisions of the uniform partnership act, and appeared before the judiciary committee and urged its adoption. We submitted to the said committee a statement of the changes which would be effected by said act, and pointed out that these changes were almost entirely confined to what is known as the case law of Massachusetts. We obtained the support of the Massachusetts Bar Association in favor of the enactment of said law. No one appeared in opposition, but the judiciary committee nevertheless referred the matter to the next General Court. We hope that this act may be adopted at the next session of the Legislature.

THE NATIONAL CONFERENCE OF COMMISSIONERS ON
UNIFORM STATE LAWS.

This body held its annual meeting in Chicago in August, 1916. During the year previous to the meeting work was being done by various committees on a number of proposed uniform laws.

The committee on commercial law, of which Professor Williston is a member, did further work on the uniform limited partnership act, and also devoted considerable time to an act to make uniform the law of conveyances in fraud of creditors and to a proposed uniform conditional sales act.

The special committee appointed to draft a uniform occupational diseases act, of which Hollis R. Bailey is chairman, had several meetings, and after considerable investigation framed an act to be considered in due course by the conference.

The special committee on a uniform incorporation law, of which Mr. Joseph F. O'Connell is a member, continued its work but was not ready to urge the adoption of its act.

The special committee appointed to draft a uniform automobile law, of which Mr. O'Connell is a member, is engaged in preparing a uniform act which shall cover those portions of the law relating to automobiles which ought to be uniform in the several States.

DOINGS AT ANNUAL MEETING.

The meetings of the conference as a whole began Aug. 23, 1916, and continued until Aug. 29, 1916. There were some committee meetings on August 22.

The uniform limited partnership act received final consideration and was approved and recommended for adoption by the States. The same is true of the uniform law for the extradition of persons of unsound mind.

The land registration act received final approval and also the uniform flag law.

A considerable amount of time was devoted to the consideration of the proposed uniform conditional sales act and the uniform fraudulent conveyances act, which are to come up next year for final approval.

LEGISLATION RECOMMENDED.

Your Board recommends the enactment of the uniform partnership act, and the uniform act for the extradition of persons of unsound mind.

EXPENDITURES OF THE BOARD.

| | |
|---|----------|
| Feb. 4, 1916, Wright & Potter, printing partnership act, . . . | \$10 13 |
| March 1, 1916, Wright & Potter, printing annual report, . . . | 19 77 |
| April 22, 1916, contribution on behalf of the Commonwealth towards the general expenses of the conference of commis- sioners, | 100 00 |
| June 23, 1916, Samuel Williston, traveling expenses, . . . | 56 90 |
| June 23, 1916, Hollis R. Bailey, traveling expenses, \$42.81, and postage, \$3.60, | 46 41 |
| Oct. 9, 1916, Samuel Williston, traveling expenses, . . . | 122 55 |
| Oct. 9, 1916, Hollis R. Bailey, traveling expenses, . . . | 123 45 |
| Oct. 9, 1916, Joseph F. O'Connell, traveling expenses, . . . | 114 95 |
| | <hr/> |
| | \$594 16 |

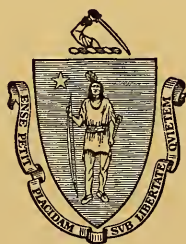
HOLLIS R. BAILEY, *Chairman.*

SAMUEL WILLISTON.

JOSEPH F. O'CONNELL.

NINTH ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1917.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1918.

PUBLICATION OF THIS DOCUMENT
APPROVED BY THE
SUPERVISOR OF ADMINISTRATION.

The Commonwealth of Massachusetts.

NINTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The Board of Commissioners for the Promotion of Uniformity of Legislation in the United States submits this its ninth annual report.

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

The National Conference of Commissioners on Uniform State Laws was organized under the name of Conference of Commissioners on Uniform State Laws at a meeting of representatives of various States held at Saratoga Springs, N. Y., on the twenty-fourth to the twenty-seventh days of August, 1892, at which meeting there were present twelve commissioners, representing seven States. Massachusetts then had three commissioners, Edmund H. Bennett, Leonard A. Jones and Frederick J. Stimson, and we believe that they were among the twelve members present at this first meeting.

Subsequent meetings have been held at times and places as follows:—

Nov. 15-16, 1892, New York City, N. Y.
Aug. 31, 1893, Milwaukee, Wis.
Aug. 22-23, 1894, Saratoga Springs, N. Y.
Aug. 26-27, 1895, Detroit, Mich.
Aug. 15-17, 1896, Saratoga Springs, N. Y.
Aug. 23-24, 1897, Cleveland, Ohio.
Aug. 15-17, 1898, Saratoga Springs, N. Y.
Aug. 26-28, 1899, Buffalo, N. Y.
Aug. 25-29, 1900, Saratoga Springs, N. Y.
Aug. 19-20, 1901, Denver, Colo.
Aug. 25-26, 1902, Saratoga Springs, N. Y.
Aug. 24-25, 1903, Hot Springs, Va.
Sept. 22-24, 1904, St. Louis, Mo.
Aug. 18-23, 1905, Narragansett Pier, R. I.
Aug. 22-25, 1906, St. Paul, Minn.
Aug. 22-24, 1907, Portland, Me.
Aug. 21-24, 1908, Seattle, Wash.
Aug. 19-23, 1909, Detroit, Mich.
Aug. 25-29, 1910, Chattanooga, Tenn.
Aug. 24-28, 1911, Boston, Mass.
Aug. 21-26, 1912, Milwaukee, Wis.
Aug. 26-30, 1913, Montreal, Can.
Aug. 14-19, 1914, Washington, D. C.
Aug. 10-16, 1915, Salt Lake City, Utah.
Aug. 23-29, 1916, Chicago, Ill.
Aug. 29-Sept. 3, 1917, Saratoga Springs, N. Y.

The twenty-seventh annual meeting of the National Conference of Commissioners on Uniform State Laws was held in the Supreme Court room, appellate division, in the town hall at Saratoga Springs, N. Y., Aug. 29 to Sept. 3, 1917, inclusive. At this meeting there were present sixty-five commissioners, representing thirty-six jurisdictions.

The National Conference of Commissioners on Uniform State Laws is composed of commissioners appointed by legislative or executive authority from the States, the District of Columbia, the territory of Alaska and the island possessions of the United States. The meetings of the national conference have been held regularly immediately preceding the annual meeting of the American Bar Association on the dates and at the places above stated.

The purpose of the organization, as its name imports, is to promote uniformity of legislation on subjects of common interest throughout the United States. The commissioners are selected from the legal profession, and serve without compensation or emoluments of any sort. Many of them have for years paid their own expenses, and all of them have rendered unstinting services for the public welfare. There is nothing of a personal or private nature about any of the aims or objects of the national conference. Proposed acts are carefully drawn by a special committee of trained lawyers, assisted by experts in many instances, and are printed, distributed and discussed in the national conference at more than one annual session. When finally approved by the conference the uniform acts are recommended for general enactment throughout the jurisdictions of the United States and are submitted to the American Bar Association for its approval. Each uniform act is thus the fruit of more than one tentative draft submitted to the criticism, correction and emendation of the commissioners, and represents the experience and the judgment of a select body of lawyers chosen from every part of the United States.

The work of the twenty-seventh annual meeting briefly stated was as follows: —

After careful consideration by the commissioners the proposed uniform fraudulent conveyances act, the proposed uniform conditional sales act and the proposed uniform automobile act were recommitted to their respective committees for redrafting.

The proposed uniform occupational diseases act was fully explained and discussed and recommitted for further action by the committee.

The proposed uniform vital and penal statistics act, because of the absence of Col. Nathan William MacChesney in the military service of the United States, was not taken up for detailed consideration but was recommitted to the committee to be taken up and acted upon at the next meeting of the conference.

The proposed uniform flag law was finally approved and recommended to the various States for enactment.

Officers, 1917-18.

The officers elected for 1917-18 were as follows:—

W. A. Blount, Pensacola, Fla., *President*.

Andrew A. Bruce, Bismarck, N. D., *Vice-President*.

W. O. Hart, New Orleans, La., *Treasurer*.

George B. Young, Montpelier, Vt., *Secretary*.

The Massachusetts commissioners are members of the following committees:—

HOLLIS R. BAILEY.

Standing Committee on Scope and Program.

Standing Committee on Legislation.

Special Committee on Marriage and Divorce.

Special Committee on Compacts and Agreements between States.

Chairman, Special Committee on Occupational Diseases.

SAMUEL WILLISTON.

Special Committee on Commercial Law.

Special Committee on Legislative Drafting.

JOSEPH F. O'CONNELL.

Special Committee on Incorporation.

Special Committee on Vital and Penal Statistics.

Special Committee on Automobile Legislation.

DOINGS IN MASSACHUSETTS.

Your Board last year recommended the enactment of the uniform partnership act and the uniform act for the extradition of persons of unsound mind.

Early in the year our attention was called to the fact that the greater part of the uniform act for the extradition of persons of unsound mind was already law in Massachusetts, having been enacted in 1909 (Acts of 1909, chapter 504, sections 87-90) on the recommendation of a commission appointed by Governor Guild for the revision and codification of the laws of Massachusetts relating to the insane. This commission consisted of Dr. George T. Tuttle, superintendent of the McLean Hospital, James F. Curtis, Esq., and Dr. Henry R. Stedman. The immediate cause of its adoption was the savage attack upon Postmaster Morgan in New York City on Nov. 9, 1908, in which he was shot and

seriously wounded by an insane man who had escaped from the hospital in Worcester, Mass. As the law then was, his extradition was impossible and he remained at large until the shooting aforesaid when he committed suicide. If the proposed uniform act which is a little broader than the Massachusetts law is generally adopted by the States, a serious danger to the public will be minimized.

The uniform partnership act was referred to the joint judiciary committee. Your Board urged its adoption, and there was no opposition. The judiciary committee, however, did not recommend its enactment.

The uniform partnership act has now been adopted in Alaska, Illinois, Maryland, Michigan, Pennsylvania, Tennessee, Wisconsin and Wyoming.

Its adoption in Massachusetts we feel sure is highly desirable. It will remove a number of ambiguities which now exist in the law, and in the matter of winding up partnerships where there is real estate not needed to pay debts will work a decided improvement in the law.

The Massachusetts Bar Association has appointed a special committee on uniform State laws and the same is true of the Massachusetts Conveyancers Association.

With the help of these committees we hope to accomplish more this year than heretofore in the way of securing the adoption of uniform acts in Massachusetts.

LEGISLATION RECOMMENDED.

Your Board recommends the enactment of the uniform partnership act, the uniform limited partnership act, and the uniform flag law.

OCCUPATIONAL DISEASES.

The matter of drafting a uniform occupational diseases act was taken up by the National Conference of Commissioners on Uniform State Laws two years ago, and a special committee was appointed of which your commissioner, Hollis R. Bailey, was made chairman. This committee has done a good deal of work and has drafted an act along the lines followed in England and elsewhere.

The act is intended as a supplement or addition to the Workmen's Compensation Acts in the several States. There is much need of such a law in Massachusetts, where great uncertainty now exists as to what disability resulting from disease comes within the terms of the Workmen's Compensation Law.

This proposed act does not interfere with the so-called health insurance act which Governor McCall last year recommended in his annual message.

A copy of the report of the special committee on occupational diseases with its draft of an act is annexed hereto as an appendix to this report.

EXPENDITURES OF THE BOARD.

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| Feb. 7, 1917, Wright & Potter, printing additional copies of partnership act, | \$10 13 |
| March 14, 1917, contribution on behalf of the Commonwealth towards the general expenses of the conference of commissioners, | 100 00 |
| March 21, 1917, Wright & Potter, printing 800 copies of annual report, | 15 54 |
| May 2, 1917, Samuel Williston, traveling and other expenses, | 35 60 |
| May 2, 1917, Hollis R. Bailey, traveling and other expenses, | 50 31 |
| Oct. 10, 1917, Hollis R. Bailey, traveling and other expenses, | 52 15 |
| Oct. 10, 1917, Samuel Williston, traveling and other expenses, | 96 46 |
| Oct. 17, 1917, Jos. F. O'Connell, traveling and other expenses, | 99 03 |
| Dec. 19, 1917, S. Williston, traveling and other expenses, | 35 32 |
| | <hr/> |
| | \$494 54 |

HOLLIS R. BAILEY, *Chairman.*
 SAMUEL WILLISTON,
 JOSEPH F. O'CONNELL.

APPENDIX.

REPORT OF THE SPECIAL COMMITTEE ON OCCUPATIONAL DISEASES TO THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS.

OCCUPATIONAL DISEASES.

Your committee during the year which has elapsed since its last report was submitted has done considerable work in the way of study and investigation. Early in the year it sent out copies of its tentative draft of an act to all members of the conference, to all the Governors of the different States, to all members of industrial accident boards and other similar bodies and to a number of judges, and invited suggestions. A number of suggestions were received and considered and considerable interest in the subject was manifested.

Your committee has received much valuable assistance from P. Tecumseh Sherman, Esq., and J. P. Chamberlain, Esq., of New York, who have devoted a great deal of time to the study of the subject.

Our draft of last year has been revised very considerably, and, as your committee believes, has been greatly improved.

The subject of occupational diseases has been dealt with in Bulletin of the United States Bureau of Labor Statistics (Whole Number 203), Workmen's Insurance and Compensation Series No. 8, published in January, 1917. It appears from this bulletin that the subject of occupational diseases has received attention from the United States Attorney-General, the solicitor of the Department of Commerce and Labor and the industrial accident boards and courts in Connecticut, Massachusetts, New York, Michigan, Ohio, Colorado, Illinois, New Jersey, Wisconsin and Pennsylvania. See the following cases relating to occupational diseases: —

Miller *v.* Am. Steel & Wire Co., 97 Atl. 345 (Conn.).

Johnson *v.* London Guarantee Etc. Co., 104 N. E. 735 (Mass.).

In re Hurle, 104 N. E. 336 (Mass.).

Naud *v.* King Sewing Machine Co., 159 N. Y. S. 910.

Adams *v.* Acme White Lead & Color Works, 148 N. W. 485 (Mich.).

Industrial Commission *v.* Brown, 110 N. E. 744 (Ohio).
Liondale Bleach etc., Works *v.* Ricker, 89 Atl. 929 (N. J.).
Baltimore & O. R. Co. *v.* Branson, 98 Atl. 225 (Md.).
Linnane *v.* Aetna Brewing Co., 99 Atl. 507 (Conn.).
Hartford Accident etc. Co. *v.* Indus. Acc. Com., 163 Pac. Rep. 225 (Cal.).

It is still true that none of the workmen's compensation acts which are held to include occupational diseases provide any proper machinery for awarding compensation for disability and death resulting from such diseases.

It is still true that no definition has been found which will serve to exactly classify occupational diseases.

We are still of the opinion that the only practical way of dealing with the matter is to make a schedule of those diseases which are found to result from certain employments or processes.

The words "occupational diseases" have two different meanings. They are used to describe —

First. — The large number of diseases to which the public at large is subject, but which *may* be caused or aggravated or accelerated by specific conditions of labor. This is the commonly accepted medical definition.

Second. — Those relatively few diseases to which the public at large, generally speaking, is not subject, but which are attendant upon and peculiar to specific industrial processes and for which the industry itself is wholly or principally responsible. This may be called the industrial definition.

Only diseases of the latter class can justly be made subjects of compensation. In the British Workmen's Compensation Act they are called "industrial diseases," to distinguish them from the first and more comprehensive class of occupational diseases. We, however, have preferred to adhere to the more popular title of "occupational diseases," though using the words only in the more restricted of the two above defined meanings. Therefore, "occupational diseases," when referred to in our draft, must not be confounded with the ordinary diseases or sicknesses which workmen suffer like other members of the community, such as rheumatism, tonsillitis or tuberculosis.

There is already a movement well started to have the larger class of occupational diseases taken care of by what is called health insurance.

We have drafted our proposed uniform occupational diseases act along the lines of the British Workmen's Compensation Act, 1906 (section VIII. and schedule III. as later amended). Other similar legislation is to be found in the Swiss Employers' Liability Law of 1881 now replaced by article 68 of the Sickness and Accident Insurance Law of 1911, the Ontario Workmen's Compensation Act of 1914, and the Manitoba Workmen's Compensation Act of 1916.

It should be realized that the placing upon employers of a liability for maladies contracted in their service will necessarily result in severe discrimination against those persons seeking employment who do not display the highest qualities of resistance to disease. This result will be unobjectionable if the liability is limited to apply only to those diseases peculiar to occupations extraordinarily dangerous to health and from which the weakly may properly be excluded; but this result will be extremely disadvantageous to workmen if the liability is applied extensively. It is advisable, therefore, that the schedule should include only such diseases as are clearly and almost entirely due to the nature of the employment.

In an article in the University of Pennsylvania Law Review for April, 1917, P. Tecumseh Sherman, Esq., has considered the whole question of occupational diseases with great care, and has furnished a large amount of valuable information in regard to the same. No one interested in this matter should fail to read this article.

In the notes which follow different sections of our proposed act we have in citing cases used the following abbreviations: —

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|---|-----------|
| Butterworth's Workmen's Compensation Cases, . . . | B. |
| Irish Law Times, | Ir. L. T. |
| Scottish Law Reporter, | S. L. R. |
| Law Times, | L. T. |

Each member of the committee reserves the right to criticize the draft as now presented.

HOLLIS R. BAILEY, *Chairman*.
 NATHAN WILLIAM MACCHESNEY.
 C. A. SEVERANCE.
 CHARLES E. SHEPARD.
 GEORGE D. AYERS.
 W. H. FOLLAND.
 R. H. WILLIS.

DRAFT OF A UNIFORM OCCUPATIONAL DISEASES ACT,
BEING A SUPPLEMENT TO THE UNIFORM WORKMEN'S
COMPENSATION ACT.

AN ACT TO MAKE UNIFORM THE LAW RELATING TO COM-
PENSATION TO EMPLOYEES FOR DISABILITY OR DEATH
RESULTING FROM OCCUPATIONAL DISEASES.

Be it enacted, etc., as follows:

SECTION 1. *Right to Compensation.* — If a workman is disabled or dies and his disability or death is caused by one of the diseases mentioned in the schedule of diseases annexed to this act, and the disease is due to the nature of any employment in which the workman was engaged, he or his dependents shall be entitled to compensation as hereinafter stated.

NOTE. — See British act, section VIII., subsection 1.

This section follows the British act in requiring that the disease must be one of those enumerated in the first column of the schedule, but need not be caused by any of the processes enumerated in the second column of the schedule.

For the sole purpose and effect of the second column of the schedule see section 18 *infra*.

As to when a disease is due to an employment, see *Timpson v. Mowlem*, 8 B. 178.

As to when death is "caused by" a disease, see *Haylett v. Vigor*, 1 B. 282.

The British law (section VIII., subsection 1, clause (ii)) allows compensation also where a workman is "suspended" from his usual employment, under the Factory and Workshop Act, on account of having contracted an industrial disease. But the practice of suspension does not prevail in America and there is consequently no occasion for such a provision in our law.

SECTION 2. *Changes in Schedule.* — The industrial accident board shall from time to time recommend to the legislature such changes in said schedule of diseases as it shall find desirable.

NOTE. — In Great Britain new diseases may be and have been added to the schedule by departmental orders (section VIII., subsection 6). It is desirable that additions to the schedule of occupational diseases should emanate from the experience of the Industrial Accident Board, and not from the political inclinations of the Legislature.

SECTION 3. *Time Limit.* — Neither the workman nor his dependents shall be entitled to compensation for disability or death resulting from disease unless the disease is due to the nature of his employment within the twelve months previous

to the date of disablement, whether under one or more employers.

NOTE. — Under section 7 of the uniform Workmen's Compensation Act, construed in connection with section 4 of this act, death must result within () years from the date of disablement.

The twelve months' time limitation follows section VIII., subsection 1, of the British act. The disease must be actually contracted within that time limitation, it not being sufficient that the workman was employed under one employer for a short time within such time limit in the employment (occupation) to the nature of which the disease was due; if in fact such disease was contracted solely while engaged in that employment (occupation) under other employers during an earlier period. See *Dean v. Rubian Co.*, 7 B. 209.

It should be observed that the word "employment" is used in this act, as in the British act, in two distinct senses: (1) as meaning a particular industry or occupation; (2) as meaning the service of a particular employer.

SECTION 4. *Disablement treated as Accident.* — The disablement of a workman resulting from an occupational disease covered by this act shall be treated as the happening of an accident within the meaning of the act to which this act is a supplement.

NOTE. — This provision is derived from section VIII., subsection 1, clause (a) of the British act. It is also to be found in the Swiss law of 1911 (article 68), in the Ontario act (section 100 (1)) and in the Manitoba act (section 81-A).

SECTION 5. *Certifying Physicians.* — The (state board of health) under civil service rules shall, so far as they are needed, appoint one or more competent and suitable physicians in each (city and town,) whose duty it shall be to examine any workman, who so requests, and certify whether he is suffering from a disease mentioned in the schedule of diseases annexed to this act and whether he is thereby disabled from earning full wages at the work at which he was employed; also whether the disease is due to the nature of the employment, and the date on which the disability commenced.

NOTE. — In Great Britain the "certifying surgeons" are appointed under provisions of the Factory and Workshop Act, 1901 (section VIII., subsection 1, clause (1)); and their functions in respect of industrial diseases are prescribed in regulations (Regulations of June 21, 1907) promulgated by the Secretary of State under authority of section VIII., subsections 3 and 5.

A certificate from a certifying surgeon normally precedes a claim; but it need not precede the notice of disablement. See *Devine v. Metcalfe*, 45 Ir. L. T. 271.

As to the legal effect of a certificate — favorable, unfavorable or defective — and of failure to obtain a certificate, see British act, section VIII., subsections 2 and 4, clause (b); *McGinn v. Udston Co.*, 5 B. 559; *Birks v. Stafford Co.*, 6 B. 617; *Mapp v. Straker*, 7 B. 18.

SECTION 6. *Date of Disablement.* — For the purposes of this act the date of disablement, unless fixed by agreement of the parties shall be such date as the certifying physician certifies as the date on which disability commenced, or if he is unable to certify such a date, the date on which his certificate is given; *provided, however*, that if appeal is taken to the board under section seven, the date of disablement shall be such date as the board may determine.

But where a workman dies from an occupational disease covered by this act without having obtained a certificate stating the date on which such disability commenced, the date of his death shall be the date of disablement.

NOTE. — The first paragraph of this section follows closely section VIII., subsection 4 and subsection 4, clause (a) of the British act. The second paragraph has the same intent as section VIII., subsection 4, clause (b) of the British act, but is changed in expression to avoid a misconstruction to which the language of that subsection seems liable.

SECTION 7. *Disputed Cases.* — If an employer or a workman is aggrieved by the action of a certifying physician in giving or omitting or refusing to give a certificate as to disability or as to date or cause of disability, or if any other point is in dispute, the matter shall be dealt with by the industrial accident board upon a petition being filed with it.

NOTE. — Under the British act the appeal from the "certifying surgeon" is to the "medical referee" (section VIII., subsection 1, clause (f)), who is a regular official — *i.e.*, not specially designated for each case — appointed by the Secretary of State (section X., subsection 1) and whose decision, within his jurisdiction, is conclusive. See *Chuter v. Ford*, 8 B. 160.

As to the functions and jurisdiction of the medical referee upon appeal to him, see *Garrett v. Waddell*, 5 B. 507; *Jones v. Ebbw Vale Co.*, 3 B. 181; *Winters v. Addie*, 48 S. L. R. 940.

But where, as generally in the United States, there is a special board or commission to administer the compensation law it seems more appropriate that the appeal should lie to that board or commission, and that such board or commission should have general jurisdiction over all questions involved.

The jurisdiction and powers of the Industrial Accident Board in this connection would be governed by article IV. of the uniform Workmen's Compensation Act to which this act is a supplement (*cf.* section 21 of this act).

SECTION 8. *Medical Referee.* — The said board shall, in the first instance, appoint a suitable physician as medical

referee to investigate the case and make a report to the board upon the question of disability and the date and cause thereof.

NOTE. — See notes to section 7.

SECTION 9. *Fees of Physicians and Referees.* — The industrial accident board may make rules regulating the duties and fees of certifying physicians and medical referees under this act. These fees shall be paid by the State as the other expenses of the board are paid.

SECTION 10. *Workmen, when not entitled.* — If a workman at the time of his employment wilfully and falsely represents in writing that he has not previously suffered from the disease, which is the cause of disability or death, no compensation shall be payable.

NOTE. — This provision is adapted from section VIII., subsection 1, clause (b) of the British act. Absolute good faith is a proper condition to the extraordinary rights given to workmen under this law.

SECTION 11. *Which Employer liable.* — The total compensation due shall, except as provided in sections twelve and thirteen, be recoverable from the employer who last employed the workman in the employment to the nature of which the disease was due.

NOTE. — This provision is adapted from section VIII., subsection 1, clause (c) of the British act.

Unless the provision of the law creating a presumption (section VIII., subsection 2, of the British act, section 18 of this act) applies, the burden is upon the workman or his dependents to prove that the disease was due to the nature of his employment within the twelve months preceding disablement. To illustrate: Where a workman has died of lead poisoning shortly after being employed for a few days in a pottery, but the evidence indicates that the disease was contracted solely in other potteries several years before, the burden of proof is not met. *Dean v. Rubian Co.*, 7 B. 209.

But, it seems, that, once it is proved that the disease was contracted in an employment (occupation) within such twelve months, the fact that the workman was during said twelve months engaged in such occupation under several employers, does not place upon him the additional burden of proving that the disease was actually contracted while in the service of the last employer. Cf. *Mallinder v. Moores*, 5 B. 362; *Merry v. Cunningham*, 8 B. 344. In such case the last employer would have to proceed under either section 12 or section 13 of this act. (Section VIII., subsection 1, clauses (c) (ii) and (iii) of the British act).

SECTION 12. *Prior Employer.* — If such last employer alleges that the disease was in fact entirely contracted while the workman was in the employment of some prior employer and not at all while in his employment, he shall join such prior employer as a party to the compensation proceeding and, if the allegation is proved, then that prior employer shall be the one from whom the compensation shall be recoverable.

NOTE. — This provision follows the British act, section VIII., subsection 1, clause (c) (ii).

If the last employer proves that the disease was entirely contracted in a prior employment, and such prior employment terminated more than twelve months before the date of disablement, then no one is liable. See *Dean v. Rubian Co.*, 7 B. 209.

SECTION 13. *Diseases contracted gradually.* — If the disease, which is the cause of the disability or death, was contracted gradually while the workman was with several employers during the twelve months prior to the date of disablement, all said employers shall be severally liable to the workman for their respective shares of the compensation, having regard to the respective lengths of the several employments, the relative risk exposure in each, the earnings of the workman in each and such other matters as may be relevant and material. The workman, however, may recover the total compensation from the last of said employers, and in such case such last employer shall be subrogated to the rights, if any, of the workman against prior employers.

NOTE. — This section follows section VIII., subsection 1, clause (c) (iii) of the British act with considerable modifications.

Under the conditions specified in that subsection the British law permits the workman to proceed only against the last employer and for the entire compensation. We, however, have deemed it advisable to give the workman the option of proceeding either against the last employer alone for the entire compensation, or against each employer severally for his respective share of the compensation.

The British law makes each of the prior employers who during the twelve months preceding disablement "employed the workman in the employment to the nature of which the disease was due" liable to contribute, without proof that such disease was actually contracted while in their respective employments. *Mallinder v. Moores*, 5 B. 362.

We have preferred to make the liability of prior employers to contribute dependent upon proof.

We have followed the British law in limiting to twelve months the period for tracing back responsibility for causation. As a consequence, if a disease is contracted gradually, partly under one employer within the twelve months, and partly under other employers during an earlier period, such last employer

alone would be liable; and for the entire compensation, without right to contribution. *Merry v. McGowan*, 8 B. 344.

As to the rule for measuring the respective contributions from prior employers, the British act is indefinite, but our draft incorporates the rule laid down in *Lees v. Waring*, 2 B. 474 and *Barron v. Seaton Co.*, 8 B. 218.

SECTION 14. *Joinder of Other Employers.* — Any party to a proceeding to recover compensation may join any employer claimed to be liable. The board shall make rules governing the procedure therefor.

SECTION 15. *Information, Penalty.* — The workman, or his dependents, if so requested, shall furnish such last employer or the Board with such information as to the names and addresses of all his other employers during the said twelve months, as he or they may possess; and if such information is not furnished, or is not sufficient to enable such last employer to take proceedings against a prior employer under section twelve, unless it be established that the disease was actually contracted while the workman was in his employment, such last employer shall not be liable to pay compensation, or if such information is not furnished or is not sufficient to enable such last employer to take proceedings against other employers under section thirteen, such last employer shall be liable only for such part of the total compensation as under the particular circumstances the board may deem just; but a false statement in the information furnished as aforesaid shall not impair the workman's rights unless the last employer is prejudiced thereby.

NOTE. — This section follows section VIII., subsection 1, clause (c) (i) of the British act, with considerable modifications to avoid some apparent defects therein and with the addition of the condition laid down in *Burnham v. Taylor*, 3 B. 569.

SECTION 16. *Notice to Employers.* — The employer to whom notice of death or disability is to be given, or against whom claim is to be made by the workman, shall be the employer who last employed the workman during the said twelve months in the employment to the nature of which the disease was due, and such notice and claim shall be deemed seasonable as against prior employers.

NOTE. — This provision is taken from section VIII., subsection 1, clause (e) of the British act.

SECTION 17. *Compensation, how calculated.* — The amount of the compensation shall be calculated with reference to the earnings of the workman under the last employer from whom compensation is recoverable.

NOTE. — This provision is taken from the British act, section VIII., subsection 1, clause (d). See Uniform Workmen's Compensation Act, section 15, last paragraph.

SECTION 18. *Presumption as to Cause of Disease.* — If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of the schedule of diseases annexed to this act, and his disease is the disease in the first column of that schedule set opposite the description of the process, the disease shall presumptively be deemed to have been due to the nature of that employment.

NOTE. — This provision substantially follows section VIII., subsection 2, of the British act. The presumption created would not be conclusive, but would merely shift the burden of proof, under the conditions specified, as to the *cause* of the disease. It would establish no presumption as to the *consequences* of the disease, so that, even under the conditions specified, the burden would rest on the claimant to prove that disability or death resulted proximately or ultimately from the disease, it being insufficient that it was caused by a complaint which might or might not have been a sequela of the disease. *Haylett v. Vigor*, 1 B. 282.

As to the meaning of "at or immediately before the date of the disablement," see *Dean v. Rubian Co.*, 7 B. 209; *M'Taggart v. Barr*, 8 B. 376.

SECTION 19. *Diseases which are Accidents.* — Nothing in this act shall affect the rights of a workman to recover compensation in respect to a disease to which this act does not apply, if the disease is a personal injury by accident within the meaning of the uniform workmen's compensation act, to which act this act is a supplement.

NOTE. — This provision is taken from section VIII., subsection 10 of the British act, and is intended to prevent all possibility of this act being construed to be the sole provision for compensation for diseases, thereby abrogating the right under existing compensation laws to compensation for disability or death due to disease incurred "by accident arising out of and in the course of the employment." Under this act in conjunction with the uniform Workmen's Compensation Act, cases of disability or death from disease due wholly or partly to the workmen's occupations, would fall in four categories: (1) diseases, not occupational but by accident, compensable under the accident law; (2) diseases, not by accident but occupational, compensable under the occupational diseases law; (3) diseases, both occupational and by accident, compensable under either law — according to British experience generally claimed for under the occupational diseases law, because of its easier rules of proof; (4) diseases neither occupational nor by accident, not compensable.

SECTION 20. *Disability and Disablement defined.* — In this act disability means the state of being disabled from earning full wages at the work at which the workman was last employed; disablement means the act of becoming so disabled.

NOTE. — The first provision of this section is taken from section VIII., subsection 1, clause (i) of the British act.

For cases on "disability" and proof of disability, see *Jones v. New Brynmally Colliery*, 5 B. 375; *Garnat Collieries v. Rees*, 133 Law Times 329; *Darroll v. Glasgow*, 6 B. 354; *Williams v. Ruabon*, 7 B. 202.

SECTION 21. *Workmen's Compensation Act.* — The provisions of the uniform workmen's compensation act so far as applicable shall apply to cases of disability and death for which compensation is provided by this act.

NOTE. — A review of an award for compensation would be governed by the same rules as an award for injury by accident. See *Williams v. Bwllfa Collieries*, 7 B. 124.

SECTION 22. *Prior Disability or Death.* — The provisions of this act shall not apply to disability or death resulting from a disease contracted prior to the taking effect hereof.

NOTE. — See *Greenhill v. The Daily Record*, 2 B. 244.

SECTION 23. *Rules of Construction.* — (a) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this act. (b) This act shall be so interpreted and construed as to effect its general purpose to make uniform the laws of those states which enact it.

SECTION 24. *Title of Act.* — This act may be cited as the uniform occupational diseases act.

SECTION 25. *Prior Statutes, Repeal.* — All acts and parts of acts inconsistent with this act are hereby repealed.

SECTION 26. *Time of taking Effect.* — This act shall take effect on the first day of _____, nineteen hundred and

NOTE. — The word "workman" in this act under the definition in the uniform Workmen's Compensation Act means either the workman or his dependents.

SCHEDULE OF OCCUPATIONAL DISEASES.

| DESCRIPTION OF DISEASES. | DESCRIPTION OF PROCESS. |
|---|--|
| 1. Anthrax, | Handling of wool, hair, bristles, hides and skins. |
| 2. Lead poisoning or its sequelæ, . | Any process involving the use of lead or its preparations or compounds. |
| 3. Mercury poisoning or its sequelæ, . | Any process involving the use of mercury or its preparations or compounds. |
| 4. Phosphorus poisoning or its sequelæ. | Any process involving the use of phosphorus or its preparations or compounds. |
| 5. Arsenic poisoning or its sequelæ, . | Any process involving the use of arsenic or its preparations or compounds. |
| 6. Ankylostomiasis, | Mining. |
| 7. Poisoning by nitro-derivatives and amido-derivatives of benzine (dinitro-benzol, anilin and others) or its sequelæ. | Any process involving the use of a nitro-derivative or amido-derivative of benzine or its preparations or compounds. |
| 8. Poisoning by carbon bisulphide or its sequelæ. | Any process involving the use of carbon bisulphide or its preparations or compounds. |
| 9. Poisoning by nitrous fumes or their sequelæ. | Any process in which nitrous fumes are evolved. |
| 10. Poisoning by nickel carbonyl or its sequelæ. | Any process in which nickel carbonyl gas is evolved. |
| 11. Arsenic poisoning or its sequelæ, . | Handling of arsenic or its preparations or compounds. |
| 12. Lead poisoning or its sequelæ, . | Handling of lead or its preparations or compounds. |
| 13. Poisoning by <i>Gonioma kamassi</i> (African boxwood) or its sequelæ. | Any process in the manufacture of articles from <i>Gonioma kamassi</i> (African boxwood). |
| 14. Chrome ulceration or its sequelæ, . | Any process involving the use of chromic acid or bi-chromate of ammonium, potassium, or sodium, or their preparations. |
| 15. Eczematous ulceration of the skin produced by dust or caustic or corrosive liquids, or ulceration of the mucous membrane of the nose or mouth produced by dust. | |
| 16. Epitheliomatous cancer or ulceration of the skin or of the corneal surface of the eye, due to tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances. | Handling or use of tar, pitch, bitumen, mineral oil or paraffin, or any compound, product or residue of any of these substances. |
| 17. Scrotal epithelioma (chimney-sweeps' cancer). | Chimney-sweeping. |
| 18. Miners' nystagmus, | Mining. |

- | | |
|--|---|
| 19. Glanders, | Care of any equine animal suffering from glanders; handling the carcass of such animal. |
| 20. Compressed air illness or its sequelæ. | Any process carried on in compressed air. |
| 21. Subcutaneous cellulitis of the hand (beat hand). | Mining. |
| 22. Subcutaneous cellulitis over the patella (miners' beat knee). | Mining. |
| 23. Acute bursitis over the elbow (miners' beat elbow). | Mining. |
| 24. Inflammation of the synovial lining of the wrist joint and tendon sheaths. | Mining. |
| 25. Cataract in glassworkers, . . . | Processes in the manufacture of glass involving exposure to the glare of molten glass. |
| 26. Telegraphist's cramp, . . . | Use of telegraphic instruments. |
| 27. Writer's cramp. | |
| 28. Dope poisoning; that is poisoning by tetrachlor-methane or any substance used as or in conjunction with a solvent for acetate of cellulose or its sequelæ. | Any process in the manufacture of air craft. |

The foregoing schedule is intended to be merely suggestive not exhaustive, and, on the other hand, includes some diseases which possibly ought to be omitted.

It follows literally the British schedule as amended to date except —

(1) Under the British act the processes set down opposite lead poisoning in the schedule are limited to certain processes subject to special health regulations (*cf.* British "Third Schedule").

(2) "Nystagmus" has been changed to "miners' nystagmus," in accordance with the decision in *Scullion v. Cadzow Co.*, 7 B. 833.

(3) The words "caustic or corrosive" in the description of "eczematous ulceration" (No. 15), have been retained, although they are now stricken out of the British schedule by Order of Dec. 2, 1908.

(4) Under the British law, as defined by Order of Dec. 2, 1908, compensation for cataract in glass workers is limited to six months in all and to not more than four months unless an operation for cataract has been undergone.

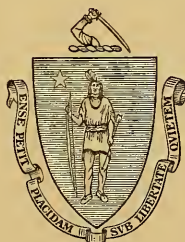
In his article in the *University of Pennsylvania Law Review* for April, 1917, P. Tecumseh Sherman, Esq., presents, but does not urge, some criticisms of the inclusion in the schedule of the diseases "beat hand," "beat knee," etc., and telegraphist's and writer's cramp.

The schedules in the Ontario and Manitoba acts include only the original six diseases of the British schedule — the first six enumerated in the foregoing schedule.

The Swiss law applies to diseases caused by such "poisonous substances" as shall be specified by the Federal Council. According to our latest information thirty-four such "substances" are now so specified, the thirty-fourth, curiously enough, being "the virus of smallpox, anthrax and glanders."

TENTH ANNUAL REPORT
OF THE
BOARD OF COMMISSIONERS
FOR THE
PROMOTION OF UNIFORMITY OF LEGISLATION
IN THE UNITED STATES.

DECEMBER 31, 1918.



BOSTON:
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,
32 DERNE STREET.
1919.

PUBLICATION OF THIS DOCUMENT
APPROVED BY THE
SUPERVISOR OF ADMINISTRATION.

The Commonwealth of Massachusetts.

TENTH ANNUAL REPORT

OF THE

BOARD OF COMMISSIONERS

FOR THE

PROMOTION OF UNIFORMITY OF LEGISLATION IN THE UNITED STATES.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The Board of Commissioners for the Promotion of Uniformity of Legislation in the United States submits this its tenth annual report.

The Board in its previous reports, all of which have been printed as public documents, has given an outline of the history of the movement for uniform legislation, with an account of the origin, growth, and work of the National Conference of Commissioners on Uniform State Laws; also an outline of the legislation in Massachusetts creating and continuing the Board of Commissioners for the Promotion of Uniformity of Legislation in the United States, with the names of the members of the Board and their years of service, and a statement of what they have done and what they have attempted to do.

The work of the members of the Board divides itself into two distinct parts: —

First. — As members of the conference they assist in preparing uniform laws to be recommended for adoption in the several States. This work is done not only at the annual session of the conference, usually held in August of each year,

but is also done throughout the year by them as members of committees appointed to draft uniform laws on various subjects.

Second. — In Massachusetts they do considerable work in introducing uniform laws and recommending their enactment by the Legislature.

The work done is laborious, and demands a good deal of time and mental effort. It is rendered without any money compensation.

The benefits derived from the work done are enjoyed not only by the Commonwealth of Massachusetts but also by the other States, which appreciate the value of uniform acts and show their appreciation by making the same a part of their laws.

Of the twenty or more uniform laws framed by the conference and recommended for adoption, Massachusetts thus far has enacted nine, viz.: —

Uniform negotiable instruments act.

Uniform sales act.

Uniform warehouse receipts act.

Uniform stock transfer act.

Uniform bills of lading act.

Uniform foreign wills act.

Uniform desertion act.

Uniform child labor act.

Uniform marriage evasion act.

“By their fruits ye shall know them,” says Holy Writ. Judged by this text the uniform laws thus far adopted in Massachusetts have justified the wisdom of the several Legislatures which have enacted the same.

In so far as the Legislature fails to enact the uniform laws which are introduced and recommended by the Board, just so far the Commonwealth fails to derive benefit from the work of the conference and of this Board.

The members of the Board are public officials appointed by the Governor. Their expenses are paid out of the treasury of the Commonwealth. They have no private interest to subserve in what they do, but act wholly for the public welfare.

In introducing uniform laws for enactment they are acting in performance of their official duty. It is no part of their work to lobby for the passage of the bills introduced. If they attend before the proper legislative committees it is only for the purpose of furnishing any information needed for a proper understanding of the purpose and scope of the laws in question.

DOINGS OF THE CONFERENCE IN 1918.

The last session of the conference was held in Cleveland, Ohio, August 22 to 26, 1918. The time was largely devoted to considering the draft of a uniform conditional sales act, the draft of a uniform fraudulent conveyances act, the draft of a uniform occupational diseases act, and the draft of a uniform compulsory work act.

Some time was devoted to a uniform incorporation act and to a division of the uniform divorce act into two parts.

Officers of Conference, 1918-19.

W. H. Blount, Pensacola, Fla., *President*.

Hugh H. Brown, Tonopah, Nev., *Vice-President*.

W. O. Hart, New Orleans, La., *Treasurer*.

Manley O. Hudson, Columbia, Mo., *Secretary*.

The members of the conference were entertained at a dinner given by A. V. Cannon, Esq., a member of the conference living in Cleveland, and Mr. Blount, the president of the conference, was invited to deliver an address before the Ohio Bar Association on the subject of uniform laws and the history and work of the conference.

The uniform conditional sales act and the uniform fraudulent conveyances act, having been considered for several years, were completed and approved, and recommended for adoption by the several States.

DOINGS IN MASSACHUSETTS IN 1918.

Your Board at the last session of the Legislature recommended the enactment of the uniform partnership act and the uniform limited partnership act. The judiciary com-

mittee reported adversely on both bills, although no one appeared to oppose either, and the passage of the bills was urged by a committee of the Massachusetts Conveyancers Association and by others. The statutes of the Commonwealth are being compiled, and these laws we think should now be adopted and included in the new revision.

LEGISLATION RECOMMENDED.

Your Board recommends the enactment by the coming Legislature of four uniform acts, viz.:—

- The uniform partnership act.
- The uniform limited partnership act.
- The uniform conditional sales act.
- The uniform fraudulent conveyances act.

All of these laws, like most of the uniform laws, will be largely a codification of existing laws, but the first of them, viz., the partnership act, will improve the law of Massachusetts by providing clearly as to the title to partnership real estate and its devolution upon the death of a partner. The second of them, viz., the limited partnership act, will be a very valuable addition to the existing law, as it will greatly facilitate the employment of capital in partnership enterprises. The third of them, viz., the conditional sales act, will give to Massachusetts a body of law which already exists in many other States, and is much needed here. The fourth of them, viz., the fraudulent conveyances act, will serve to clarify the existing law and bring it into harmony with the law of the other States which adopt the act.

Your Board also recommends an act continuing the Board for another period of five years, the name of the Board to be shortened so as to read "Commissioners on Uniform State Laws." The act establishing the Board was chapter 381 of the Acts of 1914. By this act an expenditure of not exceeding \$3,000 was authorized. The total expenditures of the Board for the five years covered by the act have amounted to \$2,874.11. The Board will ask for an appropriation of \$3,000 for the coming five years.

EXPENDITURES OF THE BOARD.

| | |
|---|----------|
| Mar. 20, 1918, Samuel Williston, traveling and other expenses, | \$33 28 |
| Mar. 27, 1918, Wright & Potter, printing annual report, . | 44 20 |
| Apr. 18, 1918, Samuel Williston, traveling and other expenses, | 26 47 |
| Mar. 25, 1918, contribution toward expenses of conference of commissioners, | 100 00 |
| Oct. 3, 1918, Hollis R. Bailey, traveling and other expenses, . | 173 73 |
| Oct. 3, 1918, Samuel Williston, traveling and other expenses, | 110 98 |
| Oct. 3, 1918, Joseph F. O'Connell, traveling and other ex- penses, ; | 113 88 |
| | <hr/> |
| | \$602 54 |

HOLLIS R. BAILEY, *Chairman*.

SAMUEL WILLISTON.

JOSEPH F. O'CONNELL.

ELEVENTH ANNUAL REPORT
OF THE
COMMISSIONERS
ON
UNIFORM STATE LAWS

DECEMBER 31, 1919



BOSTON
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The Commonwealth of Massachusetts.

ELEVENTH ANNUAL REPORT

OF THE

COMMISSIONERS ON UNIFORM STATE LAWS.

To His Excellency the Governor and the Honorable Council of the Commonwealth of Massachusetts.

The Commissioners on Uniform State Laws, appointed under the provisions of chapter 381 of the General Acts of 1914, and reappointed under the provisions of chapter 122 of the General Acts of 1919, submit this their eleventh annual report.

DOINGS OF THE CONFERENCE IN 1919.

The annual meeting of the conference was held in Boston in August, 1919. Considerable time was devoted to further consideration of a uniform occupational diseases act, and to work upon uniform laws relating to proof of statutes of other States, and concerning depositions. Some time was devoted to a bill on declaratory judgments and to an anti-loan shark bill. No additional acts were recommended for adoption by the several States.

The Hon. William A. Blount of Florida was re-elected president of the conference. Prof. Eugene A. Gilmore of Madison, Wis., was elected secretary.

DOINGS IN MASSACHUSETTS IN 1919.

Your Board last year recommended the enactment of four uniform acts, viz.: the uniform partnership act, the uniform limited partnership act, the uniform conditional

sales act, and the uniform fraudulent conveyances act, and submitted bills covering the same.

The bills were referred to the judiciary committee, and a hearing was had upon the same. No one appeared in opposition to any of the proposed legislation except the uniform conditional sales act. The bill was supported by several commercial bodies, but was opposed by a considerable number of mercantile concerns engaged in the sale of goods on the instalment plan.

The report of the judiciary committee was adverse upon all the bills.

The two partnership acts have already been adopted in quite a number of States, and are likely to be soon adopted in other States. The conditional sales act has been adopted in several States, and for the most part embodies the law as it now exists in most of the States.

The fraudulent conveyances act is largely a statement of the law in Massachusetts and many other States. It is, however, a very important piece of legislation, as it removes several uncertainties and conflicts of authority which now exist. When adopted by the different States, it will not only enable the public to know what is allowable and what is forbidden, but will also make uniform the line of division in the several States which is now divergent. The statute will also assist the courts in administering the law.

As the Legislature has now for several years refused to adopt the two partnership acts, we do not present them this year for enactment. We believe that the two acts are very valuable pieces of legislation, and that they ought to be adopted in Massachusetts. It seems to us wise, however, to wait until more States have adopted these acts before we again urge their enactment. For similar reasons we do not now renew our presentation of the conditional sales bill.

- LEGISLATION RECOMMENDED.

Your Board this year recommends the enactment of the uniform fraudulent conveyances act. As previously stated, the adoption of this act will serve to clarify the existing law which is now doubtful in several important points, and

will bring the law of Massachusetts into harmony with the law of other States which have adopted and which hereafter shall adopt the act.

The Board asks for an appropriation for the coming year of \$600. Last year, the meeting of the conference being held in Boston, the expenses of the Commissioners were small. The coming year they doubtless will be much larger.

EXPENDITURES OF THE BOARD.

| | |
|--|----------|
| March 4, Wright & Potter, printing annual report, . . . | \$14 76 |
| May 29, contribution toward expenses of conference of commissioners, | 100 00 |
| November 29, Hollis R. Bailey, traveling and other expenses, . . . | 55 93 |
| | <hr/> |
| | \$170 69 |

HOLLIS R. BAILEY, *Chairman*.

SAMUEL WILLISTON.

JOSEPH F. O'CONNELL.

